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Adeel Hussain
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1
Introduction

Modernity, Law, and Indian Muslims

> Look back at the pages of history, the record of the experience of the past, and you will not fail to be struck with the differences and distinctions that have existed between the manners, the opinions, and the customs of the various races of men––differences which have been acquired by no written rule, or prescribed by any printed form. They are in every instance the inheritance of the peculiar race. It is to these differences of thought and custom that the laws must be adapted, for they cannot be adapted to the laws. In their due observance lies the durability and security of Government. From the beginning of things, to disregard these has been to disregard the nature of man, and the neglect of them has ever been the cause of universal discontent.[1]

Sir Syed Ahmed Khan (1817–1897) penned these words to make sense of the transformations ushered in by the Rebellion of 1857–1858. His thoughts may well reflect a symptomatic expression of the burden of politics among a generation of India's Muslims—particularly the educated elite, the *ashraf*—who witnessed India's political and legal transformations in the early part of the nineteenth century.[2] By the 1860s, the *ashraf* had witnessed a gradual hollowing out of the Mughal crown; its eventual extinguishment after the Rebellion; the rise of a new political order under British colonial rule; the loss of social and political power;

[1] This is a revised translation from Syed Ahmed Khan, *The Causes of the Indian Revolt* (Banares: Medical Hall Press, 1873), 12; Syed Ahmed Khan, *Asbab Baghawat-E-Hind* (Lahore: Munshi Fazl-ud-Din, 1858), 13.

[2] For biographical information, see: David Lelyveld, *Aligarh's First Generation: Muslim Solidarity in British India* (Princeton, NJ: Princeton University Press, 1978), VI–X.

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the displacement from an old world they had once inhabited; and, perhaps more importantly, the rupturing effects of modernity through colonial law.[3] The inherited traditions of the old world of Mughal Delhi, many amongst the Muslim intellectual elite believed, were no longer apt to guide the *ashraf* in their negotiations with the changed material circumstances, let alone with the mood of the century.[4]

Having received the traditional education of a Muslim noble from an affluent family in Delhi, Syed Ahmed Khan surprised his compatriots when he abandoned a promising career at the Mughal court, and instead opted for an administrative position in the services of the East India Company.[5] Whatever his reasons may have been to take up professional employment with the Company, his proximity to the old world and the emerging political and legal order arguably shaped his worldview, which was an amalgam of diverse influences. Notably, the idea of human development and material progress amounted to nothing less than a logical sensation for Syed Ahmed Khan.[6]

In his quest to make *ashrafs* relevant as a political force, Syed Ahmed Khan, or Sir Syed as he liked to be called by his friends, relied heavily on modern ideas that allowed progress to flow from a distinct vision of the past to a specific point in the future. The Rebellion for Sir Syed came to symbolize a moment of rupture, where the old could be purged and

[3] These themes have received much consideration in the historiography of India, though some of the works are now quite old, for example, Lelyveld, *Aligarh's First Generation: Muslim Solidarity in British India*; Peter Hardy, *The Muslims of British India* (Cambridge: Cambridge University Press, 1972); Francis Robinson, 'Technology and Religious Change: Islam and the Impact of Print', *Modern Asian Studies* 27, no. 1 (1993): 229; Barbara Metcalf, *Islamic Revival in British India: Deoband, 1860–1900* (Princeton, NJ: Princeton University Press, 1982).

[4] I follow Reinhart Koselleck's classic reading that the genesis of modernity appears in the disjuncture of temporal layers (Zeitschichten); see only Reinhart Koselleck, *Zeitschichten: Studien Zur Historik*, ed. Hans-Georg Gadamer (Frankfurt am Main: Suhrkamp Verlag, 2003).

[5] G. F. I. Graham, *The Life and Work of Syed Ahmed Khan C.S.I* (London: William Blackwood and Sons, 1885), 7.

[6] The historian Andrew Sartori has recently observed that the idea of historicism—that history moves with a purpose and a goal—at least in Bengal, can be linked back to the German idealist thinker G. W. F. Hegel. Germany, Sartori argues, became the 'key trope' through which Bengali nationalists made sense of history, theology, and philosophy. While Sartori might be stretching it too far to frame historicism as a foreign import, as there were certainly native discourses on the concept of time not too far removed from historicism, his contribution goes to show how a transnational exchange of ideas could take place without using the metaphors of networks and circulation. Andrew Sartori, 'Beyond Culture-Contact and Colonial Discourse: "Germanism" in Colonial Bengal', *Modern Intellectual History* 4, no. 1 (8 March 2007): 77.

envisioned anew to meet the demands of the time. Thus, it would be fair to say that Sir Syed regarded the Rebellion as a blessing in disguise.

Because the British, by and large, held Muslims responsible for the Rebellion, they systematically removed them from positions of political power. But for Sir Syed, there were benefits in this. What Muslims received in return, Sir Syed emphasized was the ability to embark on a journey of internal debate and legal reform, freed from any immediate political obligation of rulership. Thus, it was that this period of ostensible decline and dislocation witnessed the early contouring of modern Muslim political thought in India, which continued to inform Muslims' subsequent relationship with legal orders.

Muslims undoubtedly suffered immensely from their sudden expulsion from government positions. Still, Sir Syed, and a small but outspoken group of Muslim intellectuals, regarded the carrying of the responsibility for the Rebellion as an opportunity to open fresh grounds for a dialogical encounter with the colonial state. This encounter could not be claimed so easily by those who had remained quiet or accepted the colonial regime outright, without gestures of violent resistance. For example, princes who had been loyal to the British during 1857 certainly profited materially from siding with the winning force. Yet, Sir Syed did not consider such accumulations of wealth to be politically meaningful. Far from being a 'race ruined under British rule', as an influential and oft-quoted colonial administrator diagnosed the Muslim condition in 1871, the confidence of Sir Syed and his contemporaries seems to suggest otherwise.[7] Arguably, they did not feel crushed by a sudden loss of political power but instead felt rejuvenated by it, notwithstanding that the Rebellion ushered in a newness of violence that transgressed all human-made and divine codes of conduct—in the systematic targeting of civilians or in the destruction of architectural sites and monuments—and shaped, affected, or at least surprised, most combatants and commentators alike, enlightened or native.[8]

[7] William Wilson Hunter, *The Indian Musalmans* (London: Trübner and Company, 1876), 148.

[8] Karl Marx was not surprised. In a collection of essays published in the *New York Daily Tribune* he conceived of the 'Sepoy rebellion' as being directly linked to the torturous capitalist extraction from a pre-political society, which had yet to experience large-scale industrialisation and the birth of the revolutionary agent Karl Marx, 'Investigation of Tortures in India', *New-York Daily Tribune*, 17 September 1857.

The language in which Sir Syed conducted the political conversation with the colonial state was based on what he perceived to be a code understood by the *ashraf* and the Government alike: the language of the law. That Sir Syed privileged the law over other spheres could demonstrate the strength of liberal ideas that had started to penetrate the Indian public sphere more forcefully from the late-eighteenth century. C. A. Bayly, for instance, has therefore suggested that through his propensity for law as an arena of argument and debate, Sir Syed remained a 'classic liberal in many respects'.[9] Undoubtedly, traces of liberalism, if broadly defined, can indeed be recovered from Sir Syed's thinking; however, his liberalism was of a different kind. As this chapter suggests, his suggestions were commands to the state rather than demands from it. Rather than opposed to affirming the colonial order by way of receiving concessions and distributing them among his peers, as is conventionally held, Sir Syed's statements emanate from some less than fully functional background of strength. Thus, for Sir Syed, the task of Indian Muslims was ultimately not about bringing inherited notions of *akhlaq* (civility) into accord with the demands of colonial modernity—though he may have spent a large part of his life devoted to this task as well. Instead, it was about emphasizing the ability of Muslims to protect and defend an unwritten legal order he saw rooted in the cultural tradition of Indian Muslims.[10]

In most of his speeches and writings, Sir Syed pointed out that the East India Company, and later the colonial state, had fundamentally misread the inherent values and legal norms of India's society. Mainly through their desire for a topographic legal codification of these norms, he accused the colonial state of having neglected the importance that Indians placed, for instance, on their religion. This argument formed the basis of his analysis of the 1857 Rebellion. In Sir Syed's words, any revolt 'invariably results from the existence of a policy obnoxious to the disposition, aims, habits, and views of those by whom the rebellion is brought about'.[11]

[9] C. A. Bayly, *Recovering Liberties: Indian Thought in the Age of Liberalism and Empire* (Cambridge: Cambridge University Press, 2012), 242.

[10] The ways in which Victorian values found resonance with 'indigenous' concepts like *akhlaq* have been argued, for instance, in Margrit Pernau, 'Teaching Emotions: The Encounter between Victorian Values and Indo-Persian Concepts of Civility in Nineteenth-Century Delhi', in *Knowledge Production, Pedagogy, and Institutions in Colonial India*, ed. Indra Sengupta and Daud Ali (New York: Palgrave Macmillan, 2011).

[11] Khan, *The Causes of the Indian Revolt*, 2.

From the beginning, one might say, Sir Syed's thesis set out to place a specific burden of responsibility on the policy-makers as opposed to merely looking at the erratic behaviour of natives conventionally found in British accounts. To put it differently, Sir Syed turned the liberal promise on which the colonial state was based against itself.

The reason, among a long list of shortcomings, that had ultimately triggered the soldiers to revolt, according to Sir Syed, was the Company's command to its Muslim soldiers to bite open cartridges greased with pig fat. The Company's insensitive behaviour was indicative of a much larger picture of systematic violations of Muslim susceptibilities. Sir Syed claimed that the British had inflamed Muslim sensitivities for decades, from the conversion of Muslim orphans during the 1837 Bengal famine, and the preferential treatment of missionary schools, to an open campaign of civil servants and military officers to win over their subordinates to the Christian faith. All these moves, Sir Syed argued, justly gave rise to the suspicion that the Government was using the 'poverty of its subjects' to lure them with 'employment in its services' to abandon 'their faith'.[12] It was, however, not through these gestures alone that Muslims had come under attack; the Company's Caste Disability Removal Act of 1850 had further given additional incentives for Muslims to convert. With this new Act, Indians were now able to inherit their ancestral property regardless of leaving their old religion or adopting a new one.[13] While this principle seemed egalitarian on the surface, Sir Syed analysed, it was privileging conversions to Christianity, as a 'convert to Islam' was already bound 'by the laws of his new religion' to reject any 'property left to him by men of another creed'.[14] Thus, in Sir Syed's view the Company had to shoulder a fair share of the Rebellion's blame, as it had, on the one hand, used government funds to ascertain the superiority of its own creed—Christianity—and, on the other hand, failed to inquire into the cultural codes and legal

[12] Ibid., 24.

[13] The Act No. XXI of 1850 declared the following: 'So much of any law or usage now in force within the territories subject to the government of the East India Company as inflicts on any person forfeiture of rights or property, or may be held in any way to impair or affect any right of inheritance, by reason of his or her renouncing, or having been excluded from the communion of, any religion, or being deprived of caste, shall cease to be enforced as law in the Courts of the East India Company, and in the Courts established by Royal Charter within the said territories.' In *The Unrepealed General Acts of The Governor General in Council: 1834–1867* (Calcutta: Government of India Legislative Department, 1893), 73–74.

[14] Khan, *The Causes of the Indian Revolt*, 24.

norms that were governing Muslim India.[15] The Government had been unable to live up to its promises.

Laws, for Sir Syed, were essentially crystallizations of local cultural norms and should therefore, not be confused with abstract universal principles that could potentially be transplanted from one civilization to another. Legal norms had to be deduced from careful observations of the conduct of local people, their ethics, and their political sensibilities. However, Sir Syed was not interested in resurrecting an ancient legal order that had existed for time immemorial. Instead, he was sensitive to the fact that the removal of the former constitutional monarch—the last Mughal ruler—whose political powers had long before the Rebellion failed to live up to his constitutional role, would allow educated Muslims to determine anew what these legal principles should be. It was this group of native leaders that could accurately codify 'the modes of thought', 'the likes, and dislikes, and the prejudices' inherent in Indian societies, and they might even become an important voice in the 'Legislative Council' if they chose to follow that path. Significantly, however, there was no longer any necessity for Indian Muslims to seek the establishment of some kind of monopoly of violence, in the Weberian sense, to assert themselves in the colonial state.[16] It was the Government who had to learn from them 'whether its projects are likely to be well-received' and if its policies contained any 'errors' or ran the 'danger' of 'destroy[ing]' the fragile legal order under which it was operating. Since the laws of society could not adapt to the laws of the Government, but, on the contrary, the Government had to adapt to the laws of society, it was the burden of the Government to produce a 'secure' atmosphere of 'durability and security'.[17] If the Government failed to sufficiently hear 'the voice of the people' in matters regarding 'laws and regulations', it would consequently push Indian Muslims to give 'public expression to their wishes'.[18] Sir Syed was establishing two things here. First, that political resentment against the state was caused by an epistemological error, a 'bad management' of sorts. And second, that the inclusion of native voices in the legislative council was 'indispensible' in grounding 'the

[15] Khan, *Asbab Baghawat-E-Hind*.
[16] Khan, *The Causes of the Indian Revolt*, 13.
[17] Ibid., 12.
[18] Ibid., 14.

established customs and practices of Hindustan' into an acceptable legal framework to prevent future revolts.[19] While Sir Syed shifted the burden of rulership to the Company, he remained adamant about the role of natives in judging the Government's performance.

Far from retreating, as the story of Indian Muslims in the aftermath of the Rebellion is conventionally narrated, with some embracing of colonial modernity, as a consequence of the crushing military defeat and others occupying themselves with the study of traditional (or unorthodox) texts in religious seminaries, there was a visible legal element in Sir Syed's proposal for accurate recognition. His insinuation that the sovereign mandate of the British was confined within the legal order made it possible for him to regard the role of educated Muslims as participating in the sovereign project by elucidating their cultural peculiarities.

The colonial fear that the run to nativism would unsettle the delicate sovereign structures implemented in the aftermath of the Rebellion was not lost on early observers. Sir Richard Temple, a civil servant and politician, for instance, noted in a reaction to Sir Syed's publication that the logical consequence of Sir Syed's proposed doctrines would mean nothing less than to reduce the activity of Government to simply rubber-stamping all proposals that they received regarding 'native custom'—a dangerously broad term Temple thought—and ultimately renouncing their ability to express what 'the Government thought' was 'right or not' altogether.[20] In this way, it seems that while, on the face of it, Sir Syed was embracing the principles brought forward by the state, he escaped the inherent grip of state control by arguing instead for a repositioning of the question to proper legal recognition.

In his first act of modernist iconoclasm, Sir Syed labelled the court culture of the 'Ex-king' as regressive, entirely out of touch with its people, soaked in superstition and beliefs that openly defied any regard for the laws of nature.[21] For instance, the 'fixed idea that he [Mughal king] could transform himself into a fly or gnat' and 'in this guise convey himself to other countries' to 'learn what was going [on] there', was a clear sign, Sir Syed alleged, of his inability to rule over India. Long before the king had

[19] Ibid., 15.
[20] Richard Temple, *Men and Events of My Time in India* (London: John Murray Publishers, 1882), 334.
[21] Khan, *The Causes of the Indian Revolt*, 4.

set out on his fight against the British, his 'eccentricities and follies' had lost him 'all respect in the eyes of the world'. It was only a misguided few who ended up following him merely because they lacked information about his 'conditions, his mode of life' and his 'general incompetence', mainly because they lived 'outside the walls of Delhi'.[22]

For Sir Syed legal norms were embedded in cultural practices, in ethical imperatives, and religious doctrines, which should not be 'tampered with', as the legitimacy of the colonial order rested firmly within the framework of the law, and was granted to them in the form of a temporary trusteeship.[23] A legal misrecognition was catastrophic for the British Government, as 'laws' had to adjust to already existing—though not unchangeable—native conditions, and not the other way around.[24]

It is not surprising, therefore, that Sir Syed approved of the 'efforts' made by the British Government after 1857 to reorganize the judicial administrations, to introduce new legal codes following their latest modes of knowledge production, and the standardization of reporting legal precedents.[25] Rather than viewing colonial legal activism as a strategy of domination, injustice, and the perpetuation of power, as Foucault would have it, the indigenous hope for progress—however normatively defined—was not frustrated by the dark side of modernity.[26] In Sir Syed's writings, one gets the impression that he longed for a specific form of constitutionalism that required the disposal of the Mughal king—the figurehead of the old constitutional order—to open up a space in which a collective of Indian Muslims could govern themselves on a more egalitarian basis and become the makers of their own laws, despite any ethnic and linguistic differences. This may be reminiscent of the emancipatory

[22] Ibid., 7.
[23] Ibid., 17.
[24] Ibid., 12.
[25] Khan, *Asbab Baghawat-E-Hind*, 2.
[26] Evoking Michel Foucault comes with its own set of problems. Foucault argues, on the one hand, for a displacement of legal regulations, for him essentially manifestations of sovereign power, as the main disciplinary form through which power manifests itself and, on the other, about how law comes to be subsumed under scientific knowledge discourses, which assume 'capillary powers' and produce a 'normalisation' of expert knowledge in modern societies. This colonisation of the law with other discourses is nonetheless normatively linked back to the 'modern' impulse for control and domination. The Foucauldian approach never manages to decouple law from power: Michel Foucault, *The History of Sexuality: An Introduction*, ed. Robert Hurley, vol. 1 (New York: Pantheon Books, 1978), 80–83.

potential of enlightenment ideas, though the underlying normative assumptions can hardly be universalized in any straightforward way.[27]

The notion of backwardness for Sir Syed, crucial in the production of any progress narratives, was not to be conflated with any presumed inability to participate in legislative proceedings. While it was true, he observed, that it is difficult to conceive of the proper functioning of a 'parliament' that is entirely made up of 'Indians', this would not justify the denial of their rightful place as equal lawmakers and governors of the land of their forefathers.[28] This is not to downplay the profound impact the colonial legal apparatus had on producing injustices, violence, extraction, and torture, mostly directed against Indians. Rather, it attempts to highlight how for Indian Muslims, the law retained a particular virtue that allowed for its envisioning as the primary vehicle for change towards a vaguely defined progressive ideal. Perhaps this linked to Sir Syed's conviction that the colonial order derived its legitimacy solely based on its accurate functioning and its recognition of the sociological complexities of those it sought to govern. Laws that were endorsed by a state, as Sir Syed understood them, were not just about the brute exercise of force to sustain political power and find a space for demarcation against the 'foreign', as Nietzsche famously put it. They directly related to constitutional principles of sovereignty and politics.[29]

The subject of race and gender that renders much of Sir Syed's writing controversial for contemporary scholars, particularly his contempt for Bengalis and women, could be understood—not justified—by the constitutional framework he sought to promote. If one presumes that it is the concrete ability to fight and kill to defend the legal order that turns

[27] This is, of course, not to imply that the Enlightenment constituted a seismic rupture that spread globally. Sir Syed regarded the French Revolution, for instance, as having betrayed its promise and constituting nothing more than a 'forged banknote': Syed Ahmed Khan, *Essays on the Life of Mohammed* (Delhi: Idarah-i Adabiyat-i Delli, 1951), XXIV. Dieter Reetz has gone too far in equating the Enlightenment thinking with Sir Syed's reformist programme: Dietrich Reetz, 'Enlightenment and Islam: Sayyid Ahmad Khan's Plea to Indian Muslims for Reason', *The Indian Historical Review* XIV, nos. 1–2 (1987): 206–218.

[28] Khan, *The Causes of the Indian Revolt*, 6.

[29] Nietzsche proposes thinking of unlawful acts as 'exceptions to the morality of custom', and suggests that the 'severest punishments' are not necessarily derived from an abstract codification of ethical codes but simply 'things that accord with the customs of the neighbouring people'. As an example he points out, rightly or wrongly, that for the 'Wahanabis [Wahabhis]' the ultimate 'mortal sin' is 'smoking', as it appears to them at once 'foreign, strange, uncanny' and 'outlandish'. Friedrich Nietzsche, *The Gay Science*, ed. Bernard Williams (Cambridge: Cambridge University Press, 2013), 58.

colonial subjects into political agents, anyone deemed unfit to participate in this exercise of violence was by default excluded from Sir Syed's political vision. It is on these grounds that, in his famous Lucknow speech on 18 December 1887, Sir Syed opposed, on the one hand, Muslim involvement in the newly founded Indian National Congress, and, on the other hand, ridiculed the Young Bengal movement's demand for greater representation in parliament, and juxtaposed their (non-violent) liberal political petitions with the armed resistance to British rule that had emerged in Ireland:

> I will only point out that there are at this moment in Ireland thousands of men ready to give up their lives at the point of the sword. Men of high position who sympathise with that movement fear neither the prison nor the bayonets of the police. Will you kindly point out to me ten men among our agitators who will consent to stand face to face with the bayonets? When this is the case, then what sort of an uproar is this, and is it of such a nature that we ought to join it?[30]

Meaningful representation could not be secured through liberal principles of political participation, like 'writing with the pen––giz, giz, giz, giz, giz' or 'mere talking––buk, buk, buk, buk––'. One could capture it only through the willingness to embrace the 'sword', which Sir Syed felt neither the Congress nor the Young Bengalis were able to use.[31] Their proposals for political participation could, therefore, not be accepted. Had 'such proposals' come 'from Mahomedans or from our Rajput brothers, whose ancestors always wore the sword' and which 'still remains in their hearts', Sir Syed argued, 'there would have been some sense in it [the demands for participation]'.[32] Unlike the Congress and the Young Bengalis, Indian Muslims possessed a special 'relationship to Government'. They could therefore not merely resort to 'make a noise and a hubbub like a flock of crows'.[33] There was nothing to be gained from directing accusations and insults at the colonial Government or its representatives, or even 'call

[30] Syed Ahmed Khan, *Sir Syed Ahmed on the Present State of Indian Politics, Consisting of Speeches and Letters Reprinted from the 'Pioneer'* (Allahabad: The Pioneer Press, 1888), 16.
[31] Ibid., 18.
[32] Ibid., 21.
[33] Ibid., 18.

all Englishmen tyrants' and 'blacken columns on columns of newspapers with these subjects' if one were not willing or able to fight.[34]

Besides the law, education in the modern sciences was another way of creating an egalitarian plateau with the new rulers that Syed Ahmed identified. Though the promotion of modern education has often been understood as a tool to help Muslims acquire highly sought-after positions in government services and, in this way, improve their political and economic positions, it appears that this was not Sir Syed's intention. In his inaugural speech to the Ghazipur Scientific College in 1864—which in 1877 would relocate to Aligarh and become the Muhammadan Anglo-Oriental College—Sir Syed went to great pains to emphasize the principles with which the local aristocracy (*rais*) were meeting their apparent British overlords:

> We have summoned here today to celebrate the bright future that lies ahead of us, particularly in view of the benefits that our countrymen (humwatan) will draw from the establishment of this College. Let me remind you, that these benefits will not be limited to your generation. Future generations too will extensively benefit from the establishment of this educational institution. The dignitaries of Ghazipur that have come together for this occasion have also deemed fit to invite their local English friends to join them in these festivities. I approve of their decision. But it should be known that the Britishers (angreez) have not come here as rulers (hukum) but as guests, following the command (hukum) of your invitation, and they participate in these festivities in a brotherly (baradarana) spirit.[35]

And while Sir Syed's educational institutions were largely catering to 'high born sons', ordinarily belonging to the feudal elite of the United Provinces, he could demand with sincerity that the Government could not deny access to 'mean' and 'low born' subjects in its schools and colleges.[36]

[34] Ibid., 22.
[35] Syed Ahmed Khan, *Mukammil Majmuia* (Lahore: Munshi Fazl-ud-Din, 1900), 18.
[36] Syed Ahmed Khan, *Select Committee for the Better Diffusion and Advancement of Learning among Muhammadans of India* (Banares: Medical Hall Press, 1872), 25.

> The Government, he [Sir Syed] said, was bound to keep the Colleges and Schools established by it open to all classes of its subjects, were Government to make any distinction in admitting boys to its Institutions, it would be responsible before God, and would also be guilty judged by the general Laws of the Government. All who live under the same Government are entitled to possess equal rights and privileges. It is the duty of Government to frame one Law for all its subjects, and no distinction should be made between those who fulfil the requirement of that Law.[37]

Sir Syed broke the myth of a united Muslim community and described it as utterly fragmented, not following the call of a single leader, and misinformed about the intentions of their respective state policies. However, and perhaps more significantly, with the violation of their religious sensibilities, Muslims had still miraculously been able to enact a Rebellion that transformed the East India Company from an economic enterprise to a colonial state, bound to operate in and through a legal framework. One way in which Muslim modernists accommodated the rapid transformation in the aftermath of the Rebellion was to view themselves as active participants in this legal order, which consequentially did not require the concrete exercise of sovereign power.

Sir Syed was not alone in viewing the role of Indian Muslims in this way. It is on similar terms that the jurist and political thinker Syed Ameer Ali (1849–1928), a much younger contemporary of Syed Ahmed Khan, made sense of the Muslim condition before and after the Rebellion. In the preface to his influential work, the *Personal Law of Mahommedans*, written in 1880, he identified the causes very much along Sir Syed's lines. They were rooted in a 'mistaken policy' of the Company state, one that had been adopted in the decades before the Rebellion under the Governor-General 'Lord William Bentinck' (1774–1835). 'Imperfect knowledge of Mussalman jurisprudence', for Ameer Ali, led to an erroneous assessment of 'Mussulman manners' and the laws they derived and cherished from their 'customs and usages'. Such a grave 'miscarriage of justice' adequately explained the sour feelings that led to the taking up of arms against the state. However, recently, Ameer Ali acknowledged, 'a desire' on the part

[37] Ibid., 26.

of the Government was visible to 'repair to some extent the evils caused by the neglect of half a century'.[38]

Ameer Ali further held that, far from being a race ruined under colonial rule, Indian Muslims had access to 'progressive tendencies of the age without abandoning their faith or the prescriptions of their religion'. They were thus in a position to 'sensibly influence other Mahommedan communities [in other parts of the world] which happen to be less favourably situated'.[39] Significantly, Ameer Ali, just like Sir Syed, felt that it was his immediate responsibility to participate in improving the Government's understanding of indigenous tradition. Moreover, although these men rarely advised the Government directly, their works influenced and shaped the relationships that Muslims developed with the colonial regime. For instance, Ameer Ali, after writing several books on the study of Muslim law—tediously analysing and categorizing hundreds of cases that had been brought before different local courts—could make sense of his contribution only as a 'holiday task'. Similarly, in his 1891 *Handbook of Mohammedan Law*, Ali wrote that he had published the book merely on 'the request of friends interested in legal education'.[40]

For Chiragh Ali, another companion in Sir Syed's modernist quest and a revenue collector for the Company by profession, the approach that the colonial state had taken to understanding Muslims had focused too rigidly on textual sources. In this way, the Islamic knowledge that was sourced by the British through such methods, Chiragh Ali felt, resonated little with the sociological realities of Muslims in India. Since legislation was in essence 'a science experimental and inductive', it had to take the realities on the ground seriously as opposed to deducing some set knowledge from canonical texts.[41] Furthermore, in Chiragh Ali's constitutionalism, when looking for the ultimate decision to be taken on matters regarding Muslim laws, he diverges from his otherwise carefully

[38] Ameer Ali Syed, *The Personal Law of the Mahommedans: According to All the Schools* (London: W.H. Allen & Co., 1880), VI.

[39] Ameer Ali Syed, *Spirit of Islam: Life and Teachings of Mohammed* (Calcutta: S.K. Lahiri & Co., 1902), VIII.

[40] Syed, *The Personal Law of the Mahommedans: According to All the Schools*, XII; Ameer Ali Syed, *Student's Hand-Book of Mohammedan Law* (Calcutta: Thacker Spink and Co., 1903), VII.

[41] Moulavi Cheragh Ali, *The Proposed Political, Legal, And Social Reforms in the Ottoman Empire and Other Mohammadan States* (Bombay: Education Society's Press, 1883), 162.

rehearsed script of upholding superior Western knowledge, and proposes the following:

> The writers of Europe do not deeply search the foundations of Islam, in consequence of which their knowledge is not only superficial in the highest degree, but is often based on unreliable sources. (…) The differences of climate, character, or history must be observed; the wants and wishes of men, their social and political circumstances must be taken into consideration, as it was done in the various stages of the first days of the growing Muslim Empire.[42]

As there was no 'legal and religious authority' that could derive its legitimacy directly from Quranic doctrines, Muslims increasingly viewed a Republican system in which they could elect their representatives as a viable form of Government. For Chiragh Ali, the Quran and the Hadith had to be seen as rough guidelines that could only be made particular through a radical rethinking by local Muslim interpreters.[43] Thus, the colonial state was entirely deluded in thinking that it could impose the Arabian cultural norms it had extracted from Islamic scriptures and offer them to Indian Muslims as their ancient tradition.[44] What counted for Ali were only 'the living needs of the present, and not the fossilised ideas of the past', even if they were written down in the Quran itself.[45]

According to the standard view, and with much justification, colonial law has been viewed as a discursive space in which knowledge is transformed into concrete imperatives as one way to produce docile colonial subjects.[46] What we have seen in the development of the legal order in its relationship with India's Muslims seems to unsettle this view somewhat. On the contrary, the history of Indian Muslims regarding the law appears to be scattered with instances where the law is turned into the primary space for imagining political participation, contesting the colonial state, engaging in legal antagonism, and, as this book will explore more closely

[42] Ibid., 217.
[43] Ibid., 83.
[44] Ibid., 88.
[45] Ibid., 175.
[46] This links back to the point about Foucault outlined in footnote 24: Foucault, *The History of Sexuality: An Introduction*, 80–85.

in relation to the early-twentieth century, the demand for constitutional safeguards, minority status, and in time perhaps even the actualizing of these principles in a demand for separation.

Conceiving of state laws in their positive form as tools of imperial domination diminishes the weight of indigenous people in shaping their own political and legal life-worlds. This insight is not a new one. It goes to the heart of a methodological debate in historiography that seeks to assess the role of the colonized: from victims of colonial domination to agents in their own right anew. Proponents of this view argue that, far from being muted observers, colonial subjecthood entailed different avenues of asserting legal visions and theories of justice, either by participating with the institutional design provided by the colonial state or by departing from it and constructing parallel systems of adjudication. More radical proponents of this view have argued that natives were able to strategically play one legal system available to them against another to produce solutions, they felt best suited their interests. By and large, these methodological debates have pushed historians and lawyers alike to think further about questions concerning the meaning of law in diverse cultural contexts. Such definitions can be constituted through different epistemological conceptualizations. They do not have to open a 'hermeneutical horizon' for blending Western concepts with indigenous forms of knowledge.[47] Moreover, scholars have pointed out that the work of translation—in its literal meaning through court translators or the subsequent processes of dissemination and reception through diverse information networks and communication flows—and the creative rethinking of ideas, norms, discourses, and communicative practices across cultures tend to be messy rather than in one piece.[48]

Such methodological critiques are certainly justified in their demand to seek refinement of older scholarly works. Still, they have so far focused more squarely on the sociological and cultural formations

[47] I borrow the concept of hermeneutical horizon from Gadamer's seductive theorisation of language as a horizon of hermeneutic ontology—simply put, as a window to understand the world: Hans-Georg Gadamer, *Wahrheit Und Methode: Grundzüge Einer Philosophischen Hermeneutik* (Tübingen: J.C.B. Mohr (Paul Siebeck), 1990), 442–78.

[48] Many of these methods are drawn directly from recent anthropological studies that try to make sense of the 'global flows' and the transfer of people and ideas; see only Arjun Appadurai, *Modernity at Large: Cultural Dimensions of Globalization* (Minneapolis: University of Minnesota Press, 1998), 27–66.

of native societies and, in so doing, one might justly say, reduced law to culture. This book seeks to depart from this and emphasize instead the political imaginations and sensibilities that lie behind legal contestations. It could thus be seen as a defence of political thought as a crucial factor in shaping the envisioning of legal orders. While historians have repeatedly pointed towards the lack or absence of a sustained constitutional debate among Indian Muslims, the characteristics of what such a discussion might entail have often been understood in relatively narrow terms, ideally including concrete legislative proposals from polite liberal petitioners.[49]

Essentially this book seeks to widen the lens of such constitutional debates and will look more closely at legal antagonisms—at times taking a violent form—as a viable means to partake in an engagement with the legal order. It proposes that it might be more fruitful to make sense of constitutionalism, not just as the production of written legal documents from which rights can be derived and levelled against the state, but also as articulations and visions of different social and political orders.[50] These visions might reveal themselves in debates over fundamental social values, which a community cherishes and seeks to assert, perhaps under the regulative umbrella of constitutional norms, or might altogether lead to a departure from the language of the law.

The book maps how religion turned into a legal category, and how, after taking this detour, religion entered into the broader political discourse. Legal questions regarding religious issues become profound political concerns in the early-twentieth century.

[49] See only Ayesha Jalal, *Self and Sovereignty: Individual and Community in South Asian Islam Since 1850* (London & New York: Routledge, 2000), 324.

[50] Carl Schmitt has rightly been discredited for his active participation in the Third Reich—first, as a minister of law and later as their ideological watchtower—but has acquired a new life in critical–legal scholarship largely from the left. What Schmitt means by 'positive constitution' is that Germans had no obligation to uphold the Weimar Constitution of 1919—where the spectre of the Treaty of Versailles loomed large—if they felt that it was antiqued, and could consequently adopt a new one. Carl Schmitt, 'Staatsethik Und Pluralistischer Staat', *Kant-Studien* 35 (1930): 15–18.

Power or Politics

It would be nothing more than a truism to say that law holds multiple meanings. A large part of jurisprudential scholarship has attempted to deduce some abstract validating principles to make sense of a positively codified legal order that regulates human relationships. Such validating principles have in more interesting accounts been traced back to sovereignty or other universal values that provide instant recognition and legitimization of the law.[51] For instance, one could think of the position of an absolute monarch claiming to derive his sovereignty from God. In this way it is conceivable to view the legitimacy required for the legal order as being immediately connected to the monarch, as he stands both outside the law—as the representative of God on earth—and within it—as the ultimate authority who decides how the law is regulated.[52]

Legal positivism, on the contrary, which dominated much of eighteenth- and nineteenth-century scholarship, essentially holds that all law is human-made. Its only legitimate justification, therefore, can find its roots in the procedural and institutional means to secure its neutrality.[53] While much of the debate has roughly been centred around the superiority or inferiority of the law as a detached 'rational' system of operationalizing human action, particularly distinct from ethical rules and moral imperatives that found reflection in theories of 'natural law', legal positivists ultimately succumb to the idea that, on the one hand, they presume a sovereign liberal state and, on the other hand, take autonomous individual citizens who are willing to be governed by the universal legal order as a given.[54]

The predictable postmodern critique of legal positivism lies in the latter's difficulty to adequately capture the corruption in its internal dynamics and to take cognizance of plural legal orders that contest its legitimacy from the ground. Feminist and post-colonial scholars, for one,

[51] G. W. F. Hegel, *Grundlinien Der Philosophie Des Rechts* (Leipzig: Verlag von Felix Meiner, 1821); Hans Kelsen, *Vom Wesen Und Wert Der Demokratie* (Tübingen: J.C.B. Mohr (Paul Siebeck), 1920).

[52] Carl Schmitt, *Der Wert Des Staates Und Die Bedeutung Des Einzelnen* (Tübingen: J.C.B. Mohr (Paul Siebeck), 1914), 12–15.

[53] Hans Kelsen, *Der Staat Als Integration: Eine Prinzipielle Auseinandersetzung* (Wien: Springer-Verlag, 1930), 60–69.

[54] Kelsen, *Vom Wesen Und Wert Der Demokratie*, 15–42.

have repeatedly pointed out that the apparently 'neutral' law privileges and perpetuates patriarchal domination and racial inequality. Thus, these scholars justly conclude that the legal positivist approach has historically failed to institute the enlightenment promise of justice.

In historical research, the relationship of law to power has in the past decades formed the primary lens through which scholars have understood legal regimes. Broadly, legal orders have been conceived as immediate outcomes of concrete social power relationships—he who has the gold rules, so to speak—where those who command physical force manifest their epistemological or military superiority through the establishment of a legal order that is carefully tailored to their self-interests.

In historiographical works on India, for instance, historians have suggested that the East India Company, which began as a purely commercial enterprise in India and then transformed into a colonial state, primarily instituted laws modelled on the English legal system to foster and perpetuate its exploitative economic enterprise. As the laws of the Crown were hospitable to the language of commerce, these accounts outline, the insistence on their implementation was nothing more than a tool to accumulate more wealth for a chosen few. In this way, the colonial legal order moved from absorbing and taking seriously plural indigenous legal traditions, as it had seemingly done in the earlier days of Company rule, to adopting more useful British legal codes. As the historian Bernhard Cohn put it, this way of transplanting 'British practices' led, through a series of 'epistemological failures', to 'understand[ing] the nature of Indian society', and radically transformed 'Indian status to British contract'.[55]

In such accounts, the interest in acquiring wealth and power that is attributed to the East India Company, or, to be more precise, through its members as an individual psychological motive, is delineated from rational and reasonable principles, derived as they are from purpose-driven utilitarian or altogether enlightenment ideas. Other sections of society who had lost out in this quest for power are then naturally subdued, disciplined, and punished with the law as an instrument to facilitate the perpetuation of existing power structures, both hidden and visible. From the Cohnian perspective, the legality of the legal order derives its legitimacy

[55] Bernard S. Cohn, 'From Indian Status to British Contract', *The Journal of Economic History* 21, no. 4 (1961): 628.

primarily from the exercise of physical force, that is to say, concrete sociological facts that depict the make-up of any given society. The law is seen as a derivative or sub-item to such power relationships as they manifest in real terms. For example, indigenous societies under colonial rule who accept the prescribed legal system implicitly acknowledge, aside from the legal order that is brought in front of them, its underlying power structure, which could at any time articulate itself through violence.

This argument has also been turned on its head. Recent scholarly works have argued that power could be seen as deriving its force from legal patronage and, in this sense, could not be framed as a mere consequence of top–down legal impositions of a dominant interest group. Proponents of this view argue that the state itself presupposes a legal system and is therefore primarily just one actor in an unstable and ever-changing legal matrix. Consequently, it is more apt to regard legal codes as constituted through the constant and myriad contestations they face from the ground. Research along these lines has produced more impressive results. Lauren Benton's work, for instance, has raised awareness of how colonial subjects carved out spaces for themselves within the legal order and how they strategically used legal conflicts to contest and challenge definitions that the colonizers had imported as universal wisdom from their motherlands.[56] The development of legal orders, as depicted in Benton's work, is consequently a somewhat messy process, one in which contestations from different social groups—all carrying their own legal systems—aim to exploit and exacerbate the 'jurisdictional confusion' of legal orders in their plurality.[57] Thus, the colonial state does not just exist as an external imposition but is constituted 'through a series' of legal conflicts that seek to determine the nature and relations it could potentially establish with its subjects.[58]

What both approaches have in common is that they do not adequately distinguish between law and power, in that they derive the legitimacy of legal codes either from their imposition through a repressive ruling elite or from the numerical strength of aspiring claimants on the ground. In

[56] Lauren Benton, *Law and Colonial Cultures: Legal Regimes in World History 1400–1900* (Cambridge: Cambridge University Press, 2002).

[57] Lauren Benton, 'Colonial Law and Cultural Difference: Jurisdictional Politics and the Formation of the Colonial State', *Comparative Studies in Society and History* 41, no. 3 (1999): 569.

[58] Benton, *Law and Colonial Cultures: Legal Regimes in World History 1400–1900*.

this way, both perspectives presuppose that legal conflicts find their solid core in a concrete sociological constellation, be it on the level of an individual or a group. Legal politics, as it has consequently come to be understood in history writing, is just another way of outlining the strategic use of the law to assert oneself into the predefined order of politics. However, these approaches fall short in elucidating the concrete political imaginations that lie behind such legal contestations, which give, as this book argues, meaning to the fleeting notions of power and interest in the first place. This book is thus an attempt to reposition the law away from power and towards political thought. For instance, studies of singular legal cases have provided us with insights into the strategic ways in which normative claims are contested in court, and at times even settled. However, they have not explained the ideological presuppositions that provide a fuller picture of what such strategies may come to signify beyond their factual repetition.

The conceptual tension in the history of comparative law, at least for the political theorist R. B. J. Walker, lies in the ways in which the law—which he incidentally regards as a structural cause of given political orders—relates to other legal orders that escape their political cage.[59] Again, this problem is not a new one. This question could be rephrased in the following way: To what extent can we construct a position that will do justice to the particular legal framework of South Asia in the early-twentieth century, without binding its indigenous actors to a native cultural script or ascribing some form of transcendental universalism to their action? In both extreme cases, we would either deny or affirm difference. This book holds that, for the twentieth century, such discussions have become somewhat obsolete. At least from the early-nineteenth century, there was little scope to escape the universality of—if nothing else—ideology (for instance, liberalism, communism, capitalism, and so on) that had begun to impact colonial life-worlds in general, and India in particular. This book is, therefore, more interested in the process through which this inescapable universality could be made particular. In this sense, it does not shy away from linking global currents to local circumstances and remains sensitive to the importance of place.

[59] R. B. J. Walker, *Inside/Outside: International Relations as Political Theory* (Cambridge: Cambridge University Press, 1993).

In short, this book sets out to explore the political imaginations behind legal antagonisms in late British India. It is an analysis of how participants in legal disputes situated themselves towards and into the symbolic order of the law. It will do so through the examination of two in-depth case studies of micro-historical events that warranted much discussion among Indian Muslims and relate these events to a broader ideological context. The argument of the book is the following: Indian Muslims in the early-twentieth century developed a peculiar fascination with the law, which, through a series of frustrations, led them to move away from it entirely to ask more pertinent questions about nationhood, religion, and sovereignty.

Historiography of Pakistan

In August 1947, Pakistan and India were founded amid an ongoing civil war between Hindus–Sikhs and Muslims.[60] The sudden withdrawal of the British pushed the two parties with which the birth of Pakistan and India is closely tied—the Congress and the Muslim League—for a quick transition towards operational governance structures in the wake of collapsed public order. Partition violence, as the slaughtering of Sikhs, Muslims, and Hindus has conventionally been labelled, formed the bloody background against which negotiations were taking place on the division of army personnel, the drawing of territorial boundaries, and the settlement of migrating populations.[61]

Historical scholarship has noted that Pakistan's birth defies the regular script of nation-states, founded as they were on the principle of unifying a people on tangible concepts along the lines of ethnicity, language, culture, or region.[62] Following the standard script of nationalism, Pakistan

[60] I take this point from Shruti Kapila's chapter 'A People's War: 1947, Civil War and the Rise of Republican Sovereignty', in Shruti Kapila, *Violent Fraternity: Indian Political Thought in the Global Age* (Princeton, NJ: Princeton University Press, 2021).

[61] See only Urvashi Butalia, *The Other Side of Silence: Voices from the Partition of India* (New Delhi: Penguin Books, 1998); Joya Chatterji, *The Spoils of Partition: Bengal and India 1947–1967* (Cambridge: Cambridge University Press, 2007); Sarah Ansari, 'Partition, Migration and Refugees: Response to the Arrival of Mohajirs in Sind During 1947–48', *Journal of South Asian Studies* 18, no. 1 (1995): 95–108.

[62] The tangibility of these concepts, however, itself relied on a mythical reading of the past; see only Ernst Cassirer, *The Myth of the State* (New Haven: Yale University Press, 1946);

as an idea of a Muslim homeland should have gained currency only as a constitutive part of a united India. So how are we to make sense of the development of the idea of a separate Muslim India? The approaches that have been taken in historical studies attempt to resolve this dilemma in different ways. Three dates are conventionally brought into conversation to trace the genealogy of Muslim nationalism. Classic studies ascribe the rise of a distinct Muslim political outlook to the loss of sovereign power in 1857. With the emergence of the Muslim League as a viable actor in electoral politics and the Lahore Resolution in 1940, others attempt to draw a straight line from Jinnah's presidential speech to independence. Still, others insist that it was only at the negotiating table during the Cabinet Mission Plan of 1946 that Pakistan transformed from an empty bargaining counter to a concrete political demand, mainly as an outcome of failed political negotiations. All moves reflect wider methodological concerns in the study of nationalism, from primordial views that endorse historical continuity to modernist accounts that emphasize change and rupture.[63]

Narratives about our past transform following changed circumstances in our life-worlds. The stories we construct about our past tend to reveal more about our ideological presuppositions than any accurate vision of what happened. Retrospectively, it is easier to make sense of such ideological entanglements.[64] Let's take, for instance, the obsession of Renaissance historian Leopold von Ranke—arguably the father of the modern 'realist' historical method—with unearthing primary sources and letting the truth about the past speak to the reader immediately. Ranke quickly realized that primary sources were not all in one piece. The more factual evidence one had, the more narratives weaved from it.[65]

Ernst Cassirer, *The Philosophy of Symbolic Forms, Vol. II: Mythical Thought* (New Haven: Yale University Press, 1955).

[63] For two classic examples of such approaches, see Johann Gottfried von Herder, *Ideen Zur Philosophie Der Geschichte Der Menschheit* (Leipzig: Johann Friedrich Hartfnoch, 1812); Benedict Anderson, *Imagined Communities: Reflections on the Origin and Spread of Nationalism* (New York: Verso, 2006).

[64] This point resonates with Hayden White's famous meta-historical proposition that every 'proper history' entails a 'philosophy of history'; see Hayden White, *Metahistory: The Historical Imagination in Nineteenth-Century Europe* (Baltimore: The Johns Hopkins University Press, 1973), xii.

[65] Leopold Ranke, *Zur Kritik Neuerer Geschichtschreiber* (Leipzig und Berlin: Verlag Georg Reimer, 1824), 89.

How was it then possible to find the right path in a jungle of sources that started to cut into, and slowly tear apart, the carefully crafted narrative of the historian? While Hegel proposed that one could understand the wave one was riding by acknowledging the intricate movement of history itself and feeding historical facts into a fixed universality,[66] Ranke's solution, in contrast, was centred more on the character of the individual.[67] After all, a person had to decide what facts went into a narrative and what was left outside. Through adhering to certain principles of truthfulness and morality—deeply Protestant in kind and spirit—Ranke held, the historian's character could be shaped in such a way that his or her gaze towards primary material would lead to fruitful results.[68] If the observers were truthful enough, the narratives they produced would transcend the ravages of time. Needless to say, they have not. However, Rankian approaches have made us aware that our own beliefs play an essential role in how we view the world; narratives about the past are no exception to this rule.

The ways in which historians have paused and reflected upon Pakistan's nationalist movement—no different from that of other nation-states with a recent colonial past—reveal the various afterlives that historical instances can take. Historical scholarship has moved (with recessions and overlaps) from narratives underlining the primordial existence of a separate Muslim nation on the Indian subcontinent from bygone centuries to conceptions emphasizing the productive potential of the present. Islam, in primordial accounts, produced a distinct and separate culture from prevailing indigenous systems and retained this character with little dilution, pretty much until the state of Pakistan came into existence in 1947.[69] The past is made amenable to burning political desires to achieve independence and anchor the nation in a historicist past. To point out the superficiality of such scholarly gestures has been the predictable second move in so-called modernist accounts, with their insistence that a political community comes to operate only in the present—the time of the

[66] G. W. F. Hegel, *Vorlesungen Über Die Geschichte Der Philosophie*, ed. Karl Ludwig Michelet (Berlin: Duncker & Humblot, 1833), 362–381.
[67] Ranke, *Zur Kritik Neuerer Geschichtschreiber*, 72–75.
[68] Ibid., 76.
[69] Francis C. R. Robinson, 'The Politics of U.P. Muslims 1906–1922' (University of Cambridge, PhD Unpublished, 1970).

now—with the liberal notion of interest as the prime lens of analysis.[70] These modernist perspectives opened up a horizon, on the one hand, for the impact of global markets on the creation of the state and, on the other, the Machiavellian striving for the acquisition of power and wealth for individual actors in the national struggle.[71]

We can further distinguish such views into two diverging yet interrelated camps: those who examine the interests of the elite, that is to say, politicians, wealthy landlords, and merchants, whose proponents and actors both seem to inhabit the infamous Platonic city-of-pigs; and those who seek to recover the muted voices of the subalterns—more refined souls that propose a history from below.[72] Most of these accounts had been in circulation from the moment the Muslim League declared Pakistan as its political aim in 1940, even if they reincarnated in scholarly garbs at some later point. As we progress into the immediate moment of decolonization, we find that conflicts—ethnic, cultural, or linguistic—have a tendency to explode and manifest themselves in violence, which at times acquires a distinctly political character.

Most historians have taken the nation-state as the main object of their analysis. They have looked closely at how politicians have pushed for demands, worked to unite a nation, and ultimately succeeded in accomplishing their aim of a sovereign nation-state. In Pakistan, we find such accounts in abundance. The conceptual issues with such statements are twofold: on the one hand, they depend on a temporal paradigm of Hegelian linearity—in that every historical movement or event is neatly aligned like a rosary to lead up to the next logical step—and, on the other, they are forced to furnish the psychological dimension of their historical actors with a certain consistent logic, be it enlightenment rationality or some form of deep religious enthusiasm. Ayesha Jalal's book, *Sole Spokesman: Muhammad Ali Jinnah, the Muslim League and the Demand for Pakistan* could be seen as an excellent example of the shortcomings that such approaches bring to the fore. In her work, Jalal famously

[70] The inherent 'presentism' in twentieth-century scholarship has, for instance, been pointed out by Hartog in François Hartog, *Regimes of Historicity: Presentism and Experiences of Time* (New York: Columbia University Press, 2015).

[71] Paul W. Kahn, *Putting Liberalism In Its Place* (Princeton, NJ: Princeton University Press, 2005), 10–15.

[72] For the subaltern view, see only Ranajit Guha, *Elementary Aspects of Peasant Insurgency in Colonial India* (Durham: Duke University Press, 1999).

portrayed the struggle for independence from the perspective of M. A. Jinnah, an English-educated lawyer who had returned from the West and, no different from other third-world intellectuals, began championing the cause of political rights for Indian Muslims. In short, Jalal concludes that the legal demand for concessions, in which Indian Muslims appear as one interest group in the colonial order, escalated during the messy negotiations with the British and the National Congress. This escalation ultimately culminated in the creation of Pakistan, which was then best understood as the result of failed negotiations at the level of high politics.[73]

Revolutionary violence poses a significant concern in such historiographical accounts, as it folds uneasily into narratives that prioritize either interest or reason. There are some preconditions and typical patterns that one can trace in the emergence of revolutions. For instance, an increased irrelevance or corruption of political elites. But the difficulty in predicting such uprisings has retained some form of the miraculous appearance of the popular sovereign, with the will to use violence linked immediately to the birthing of a novel political community. Think of the recent Arab spring. The structural problems and inherent issues of corruption and disenfranchisement had been felt for some decades under oppressive dictatorial regimes. Still, nobody could have predicted the sudden nature in which the revolutionary force unleashed its potential.

Similarly, the acceleration of decolonization in India was—while certainly expected at some future time—disturbingly abrupt. Historical scholarship tends to circumvent questions about these concerns, as they point towards the limits of some of their methodological convictions. In Ayesha Jalal's work, for instance, Jinnah's departure from his commitments to contractual arrangements with the Congress under a common constitutional umbrella, and his explicit endorsement of violence during the Calcutta 1946 killings, have posed difficult conceptual hurdles. Portraying Jinnah as a sober constitutional lawyer, driven as it were through the liberal notions of interest and reason alone, leaves little room for accommodating the unruly idea of sovereignty, which, after all, logically proceeds and sits outside constitutional arrangements. Jalal is

[73] Ayesha Jalal, *The Sole Spokesman: Jinnah, the Muslim League and the Demand for Pakistan* (Lahore: Sang-e-Meel Publications, 1999).

right in pointing out the muddled negotiations and their open-ended futurity, but the defence of why Jinnah could not have endorsed violence is revealing and worth quoting at length:

> All that is certain is that Jinnah had no idea of what was coming. It is not just that the politics of violence, if corporate brutalising of this sort can be so described, were anathema to him, alien to his political style and never to become a part of it, but the more powerful argument is that Jinnah did not expect, and certainly did not want, anything like this to happen. Rather he was looking for some pretext, which would allow him to take his League into an interim government. It was his expectation, just as much as the expectation of the Congress High Command, that Government from above would re-impose order upon a political society that was showing signs of cracking up as a result of assaults from below. A constitutional politician, a believer in rules enforced by rulers, Jinnah wanted to save not only the political unity of India, but also the reality of order upon which constitutional arrangements everywhere necessarily depend.[74]

The following shows the difficulty faced by Namierian approaches, of which Jalal's is but one example of scholarship on the subcontinent when explaining some of the basic forms of political manifestations. Rather than outlining arguments, Jalal seeks refuge in a repetition of how Jinnah was, in principle, against violence (reason), and in this particular case, it would not even have served his political aim (interest). Now it might be possible to insinuate that these political expressions elevated Jinnah's position and allowed him to depict the hollowness of a constituent assembly that sought its legitimacy from the British, as opposed to the popular will beyond electoral representation; violence in this way was but a fuller picture of the ways in which constitutions could be brought into life in contrast to receiving them from the colonial masters or debating them in constituent assemblies. While it might have gone against Jinnah's principles, in terms of interest alone, violence might well be regarded as a legitimizing force for the production of sovereignty as both desirable and practical. Therefore, it would be possible to say that his political style

[74] Ibid., 241.

was perhaps not as liberal–secular as Jalal makes it out to be. Reason and the trans-temporal political community to which it gives rise sit awkwardly with most of Jinnah's statements, emphasizing Pakistan as a state for Indian Muslims.

Jalal's work ends up pushing the game of 'this-is-really-that' to its conceptual limits. Religion is just a smokescreen for darker political ends and the demand for Pakistan just a bargaining chip to improve Jinnah's negotiating position with the Congress. Any assertions that Jinnah made regarding religion and violence for Jalal can therefore only be explained as 'metaphors', or as a veil for rational political ends. Could it be that Jinnah's dismissal of participating in the constituent assembly was connected to his belief that contractual arrangements were insufficient to bring to life sovereign entities? Suppose one looks afresh at Jinnah's zigzagging during the Cabinet Mission Plan, the last grand British effort to bring about reconciliation between the Congress and the League. It becomes evident that many of his moves acknowledge that the operational paradigm of liberal constitutionalism was insufficient to institute sovereign nation-states.

So what if 'this-is-really-this'? What if Jinnah's repeated insinuations about creating a state for Muslims in which Islam could flourish meant that he wanted to create a state in which Islam could flourish? Accounts that run with this formula constitute perhaps the most extensive corpus of historical works, not least because of considerable state funds pumped into them over the decades. Let's take the case of Ishtiaq Hussain Qureshi, one of the first Muslim writers to pen the history of the Pakistani nationalism. Qureshi had participated in the nationalist movement himself, after undertaking his doctoral studies at Cambridge, and later set up the history departments at Lahore and Karachi. Essentially, his work on the discovery of the nation-state seeks to stabilize the image of a distinct Muslim community into at least the sixteenth century and to ascribe a widespread political consciousness to it from 1857.[75] The demand for a nation-state, which for Qureshi crystallized in the aftermath of the Khilafat movement, should be a logical progression, as opposed to a sudden rift in the political landscape of colonial India.[76]

[75] Ishtiaq Hussain Qureshi, *The Struggle for Pakistan* (Karachi: University of Karachi Press, 1965).

[76] Ishtiaq Hussain Qureshi, *The Muslim Community of the Indo-Pakistan Subcontinent, 610–1947* (Karachi: Ma'aref Limited, 1977), 318–349.

Several modified versions of Qureshi's thesis have been offered, most recently by the Wilmington-based historian Venkat Dhulipala in his book *Creating a New Media: State Power, Islam, and the Quest for Pakistan in Late Colonial North India*.[77] Dhulipala argues that, from Pakistan's inception in the 1930s, it was widely imagined as an Islamic state and, in this capacity, should have served as an anchor for Muslims both within the subcontinent and an abstract global *ummah* (community of believers) more broadly. For Dhulipala, Islam relates directly to the principles of statecraft outlined in the Prophet's Medina years.

Dhulipala argues that the leader of the All India Muslim League, M. A. Jinnah, had become involved and ideologically tinted by three conservative reactionaries and proponents of a theocratic state: the renegade Deobandi clerics Maulana Shabbir Ahmad Usmani, Maulana Ashraf Ali Thanawi, and the young Rajah of Mahmudabad, Muhammad Amir Ahmad Khan.[78] Large parts of the book centre around the question of how exactly these people laid out their vision of a Muslim theocracy and in what ways this could have found its way into Jinnah's thinking and broader circles of Indian Muslims. Jinnah was too busy to meet with the two clerics in the hectic years leading up to partition, apart from a 30-minute conversation. Dhulipala seeks to draw much strength from this meeting for his argument. Still, there is little evidence to suggest that they converted a man of ostensible secular habits into a Muslim zealot. Dhulipala's hopes largely rest with the Rajah, who was, after all, the youngest member of the League's working committee and—like his father, Muhammad Ali Muhammad Khan—a generous financier of their political activities.[79] While Dhulipala accurately portrays the intimate relationship that Jinnah and Mahmudabad enjoyed, he leaves out that it was because the latter publicly supported a theocratic state that Jinnah distanced himself from the Rajah, stripping him of all official offices in

[77] Venkat Dhulipala, *Creating a New Medina: State Power, Islam, and the Quest for Pakistan in Late Colonial India* (Cambridge: Cambridge University Press, 2015).

[78] The political leanings of the two clerics led them to part ways with their madrasa, the Darul-Uloom Deoband, as the President of the institution, Hussain Ahmad Madani, was outspoken in his support of the Congress Party and remained in India after partition: Barbara Metcalf, 'An Argumentative Indian: Maulana Husain Ahmad Madani, Islam and Nationalism in India', in *Islamic Legitimacy in a Plural Asia*, ed. Anthony Reid and Michael Gilsenan (London & New York: Routledge, 2007).

[79] Jalal, *Self and Sovereignty: Individual and Community in South Asian Islam Since 1850*, 201.

the League in the early 1940s. In a short essay written some decades after partition, Mahmudabad acknowledges his desire for an 'Islamic state' as the crucial factor that led him 'into conflict with Jinnah'. Not only did 'Jinnah thoroughly disapproved of my [Rajah's] ideas' but he also 'dissuaded me from expressing them publicly from the League platform', as people might be led to believe 'that Jinnah shared my view'.[80]

Primordial accounts depict Indian Muslims commonly as predisposed to following a religious rhetoric in an 'enthusiastic' manner, and Dhulipala is following this script when he reserves the 'sober' and 'rational' envisioning of Pakistan for their dialogical partners.[81] For instance, Dhulipala credits the prominent Dalit activist B. R. Ambedkar for having brought a 'semblance of sanity, order and reason' to the public debate on Pakistan with the publication of his 1940 book *Thoughts on Pakistan*, though one could argue that the book was written in bad faith.[82] 'The most pertinent and crucial question', Ambedkar identifies in his book, that Hindus must ask themselves if they want to live in a united India with Muslims, is about 'the loyalty and dependability' of Muslim soldiers in the case of an invasion 'from Afghanistan'.[83] This would expose whether 'Muslims would be swayed by the call of their religion' or 'respond to the call of their land'.[84] Objections that Muslims had been loyal soldiers in the colonial army—repeatedly taking up arms against other Muslim soldiers, not least in the 1857–1858 Rebellion—are dismissed by Ambedkar with a sleight of hand, arguing instead that Muslim behaviour under British rule was 'artificial', as it suppressed the 'natural instincts and natural sympathies' of Muslims, which will once again show when they come under 'Indian control'.[85] It is telling that Ambedkar's questionable book serves Dhulipala as an authoritative referential paradigm and as a conceptual framework for the construction of the idea of Pakistan.

Rendering Muhammad Ali Jinnah as an advocate for his 'new Medina' thesis leaves plenty of space for disagreement. Dhulipala struggles to

[80] Raja of Mahmudabad, 'Some Memories', in *India's Partition: Process, Strategy and Mobilization*, ed. Mushirul Hasan (Delhi: Oxford University Press, 1993), 418.
[81] Dhulipala, *Creating a New Medina: State Power, Islam, and the Quest for Pakistan in Late Colonial India*, 423.
[82] B. R. Ambedkar, *Thoughts on Pakistan* (Bombay: Thacker & Co., 1940), 123.
[83] Ibid., 90.
[84] Ibid.
[85] Ibid., 91.

draw out the reasons behind Jinnah's ratification of the Cabinet Mission Plan—a power-sharing agreement between the Congress and the League, signed as late as 1946—which would have stalled separation for another ten years, if not done away with it altogether. Furthermore, the use of the concept 'new Medina' was by no means limited to supporters of the idea of Pakistan as a religious state. Rather it enjoyed more widespread appeal among proponents of Maulana Husain Ahmad Madni's *muttahida qaumiyat* (united nationalism) as a metaphor for a united India.

Moving away from offering yet another narrative on Pakistan's creation, Faisal Devji, in his book *Muslim Zion*, reconstructs the deeper ideological commitments of its leading political players. As these historical actors primarily belonged to groups that could be described as non-representative, Devji makes the case that the idea of Pakistan could be read as an attempt to establish a novel ecumenical practice, which in essence remained deeply anti-historical and anti-geographical.[86] The idealized notion of a Muslim homeland that could provide a solid frame for nationality was thus closer to other twentieth-century efforts, such as Zionism than to conventional states forged out of blood and soil. As opposed to seeing ideas as direct causes of historical events and analysing them in relation to historical instances, Devji employs a Lovejoyan approach that looks closely at the interrelationship of ideas almost detached from concrete historical events.[87] Pakistan is thus seen as a unit idea with certain predefined distinct features—for instance, the break with history and geography—and is traced through the writings of critical members of the Muslim League. At times, it seems, Devji does not acknowledge the concrete intellectual labour that historical events produce and how they unsettle and transform conventional political beliefs.

Political Thought in India

Apart from expanding the field of comparative constitutionalism, this book is further contributing to the emerging field of global intellectual

[86] Faisal Devji, *Muslim Zion: Pakistan as a Political Idea* (London: C. Hurst & Co. Ltd., 2013), 7–25.

[87] For Lovejoy's approach, see only Arthur Lovejoy, *The Great Chain of Being: A Study of the History of an Idea* (Cambridge, MA: Harvard University Press, 1936), 14–33.

history. More than just a bastard expression for two established areas of historical inquiry—global history and the history of ideas—global intellectual history signals a new debate. Speaking broadly, we can say that the transnational turn in the humanities has challenged the elective-affinity of history writing with the nation-state.[88] This shift from the national to the transnational—despite some intricate methodological hurdles—has profoundly altered how historians think about migration, trade, and commodities.[89] The historical study of thinkers and concepts, on the other hand, had never really warmed up to the nation-state. Historians of ideas preferred to style themselves, to use the evocative words of one of its founding fathers, John Burrow, as 'informed eavesdropper[s] on the intellectual conversation of the past'.[90] For instance, a study of Immanuel Kant, prominent amongst intellectual historians then as it is today, always already transcended the contours of the German nation-state: chronologically, conceptually, and culturally. Historians of ideas, therefore, felt less obliged to cede grounds to the global turn and pepper in transnational dimensions into their work. That being said, the focus of much intellectual history writing to date has been firmly fixed on Europe and America.

A firework of recent publications has disturbed the relative calm in the last bastion of Eurocentric writing. The imperial historian David Armitage, arguably most loyal to the European tradition, and perhaps by way of continuation, has proposed a new transnational view on ideas around sovereignty and freedom that went viral after their discovery in the American Declaration of Independence. While indeed there were cultural alterations that these ideas endured during their lengthy travels, circulating through various global networks, Armitage insists, they retained a surprisingly similar shape in constitutions from Vietnam to Southern Rhodesia.[91] Armitage's assumptions, at times, reveal a profoundly Lovejoyan impulse to trace reified 'unit-ideas' across time and

[88] C. A. Bayly et al., 'AHR Conversation: On Transnational History', *The American Historical Review* 111 (2006): 1441–1464.

[89] C. A. Bayly, *The Birth of the Modern World 1780–1914: Global Connections and Comparisons* (Oxford: Blackwell Publishing, 2004).

[90] John W. Burrow, *The Crisis of Reason: European Thought, 1848–1914* (New Haven: Yale University Press, 2000), 2.

[91] David Armitage, *The Declaration of Independence* (Cambridge, MA: Harvard University Press, 2008).

space.[92] Similar to early modernity theories, and with all their conceptual and methodological shortcomings, Armitage's remains a study of the triumphant march of freedom, illuminating, as it were, even the darkest parts of the world.

Other scholars have rightly been more critical of such modernist models, not least because they privilege the place of origin and the authenticity of an idea as opposed to its transformation during travels to different places. Such diffusionist models, they argue, tend to position Europe at the centre of any intellectual experience. Therefore, some have emphasized how local cultures converse with—and ultimately hybridize—transnational ideas, for instance, by foregrounding modes of dialogue, understanding, and meaning. Such hermeneutic or dialogic approaches show greater sensitivity to the specificity of place from where an idea is rethought. They are less prone to reification.[93]

A more radical intervention has recently changed the terms of the debate. Shifting the perspective to the 'converse process by which major traditions of non-Western political thought' were 'used to interpret modernity, confront colonial rule and, in some cases' transform 'Western political and ethical ideas themselves',[94] Shruti Kapila, Faisal Devji, and C. A. Bayly have broken with the conventional flow of ideas from East to West. They have provided a novel outlook on how place—in this case, India—becomes 'instructive for and foundational in the making of national and post-national global order'.[95] Relatedly, Western ideas can claim their global current insofar as colonial intellectuals departed from them, or actively wrote against them.[96] What makes an idea global, is its flexibility to betray its conventional meaning and its ability to take entirely new shapes and forms.

[92] Arthur Lovejoy, *The Great Chain of Being: A Study of the History of an Idea* (Cambridge, MA: Harvard University Press, 1936).

[93] Arjun Appadurai, *Modernity at Large: Cultural Dimensions of Globalization* (Minneapolis: University of Minnesota Press, 1998).

[94] Shruti Kapila and Faisal Devji, eds., *Political Thought in Action: The Bhagavad Gita and Modern India* (Cambridge: Cambridge University Press, 2013), x; Shruti Kapila and Faisal Devji, 'The Bhagavad Gita and Modern Thought: Introduction', *Modern Intellectual History* 7, no. 2 (2010): 269–273.

[95] Ibid., 273.

[96] C. A. Bayly, *Recovering Liberties: Indian Thought in the Age of Liberalism and Empire* (Cambridge: Cambridge University Press, 2012); Andrew Arsan, 'Under the Influence? Translations and Transgressions in Late Ottoman Imperial Thought', *Modern Intellectual History* 10, no. 2 (11 July 2013): 375–397.

For twentieth-century India, the experience with colonialism was radically novel and shaped by the unfolding of concrete political events—transformative in essence—which repudiate any clinging on to deep historical genealogies. As Shruti Kapila has convincingly argued, 'this was indeed the Nietzschean century in which the past had to be confronted and annihilated to create a wholly new beginning'.[97] This book looks closely at key historical events and underlines how such ruptures signal a departure from the past and a move towards an open future, at a time when nothing seemed fixed, and everything was possible to imagine.[98]

Religion, as it emerged in twentieth-century India, was not confined to providing mere ethical directives for ritual conduct. Instead, religion opened up an exhaustive political and legal register and a novel vocabulary, which could be actualized through immediate political action. In this light, then, this book examines the most significant legal controversies for Muslims in late colonial North India—the Rangila Rasul and the Shahidganj affair—that foregrounded the entanglement of religion with colonial law. By way of probing how these events were transformative for the two most influential Indian Muslim thinkers and political practitioners—Muhammad Iqbal and Muhammad Ali Jinnah—this thesis offers a fresh perspective on how Indian Muslims constituted themselves politically and articulated their visions of a new legal order.

Overview of Chapters

Chapters 1 and 2 are predominantly concerned with the ways in which Muslims made sense of the changed circumstances in the post-Khilafat era, where, one might say, the disenchantment of looking outside India's borders manifested itself in a strong urge to confront the emerging national legal order. By looking at arguably the most impactful legal controversies that occurred between Muslims and Hindus and Muslims and Sikhs, these chapters argue that desecration and offence were crucial in the philosophical construction of distinct communities with apparently

[97] Shruti Kapila, 'Global Intellectual History and the Indian Political', in *Rethinking Modern European Intellectual History*, ed. Darrin M. McMahon and Samuel Moyn (Oxford: Oxford University Press, 2014), 261.
[98] Ibid.

divergent political aspirations. It was in the exposure of vulnerability and the demolition of sacred sites, these chapters suggest, that the very principles of sacredness came to be discovered.

Chapter 2, 'In Search of Vulnerabilities Lost', explores a spectacular case that, despite its temporal and spatial distance, relates in exciting ways to current political debates on the freedom of speech and the liberal doctrine to compartmentalize religion as a private affair. The 1924 publication *Rangila Rasul* (*Colourful Prophet*), published by Mahashe Rajpal in Lahore, was certainly not the first attack on the Prophet Muhammad's domestic life. But, in its vivid depiction of his ostensible sexual deviance, it is arguably novel in both style and content. Unlike Western books on the Prophet—which were no less harsh in their critique but caused little friction with Indian Muslims and warranted a response merely from some learned men of letters—the *Rangila Rasul* pamphlet provoked widespread outrage and violence among Indian Muslims and triggered a lengthy judicial and legislative process. This chapter explores how the philosophical discovery of the Prophet as a vulnerable figure, who was in dire need of being defended by the believers, was made politically relevant. It argues that the contestation against the legal order, which was not sufficiently protecting wounded Muslim feelings, led to a series of direct and indirect articulations and eventually came to solidify the socio-political category of Muslims in pre-partition India. The political gestures also allowed for the Prophet to enter the courtroom. This chapter looks closely at court documents, vernacular newspapers, and legislative assembly debates to work out the implications of the *Rangila Rasul* case for the political imagination of Indian Muslims. The questions of blasphemy are no longer restricted in legal language but move towards sacred space, which links up territoriality to representation in the colonial order.

Chapter 3, 'Shahidganj Mosque and the Burden of Time', considers the temporal dispositions of Muslims and Sikhs during the 1935 destruction of the Shahidganj mosque, an old Mughal style building in Lahore that had, for at least a century, been in use as a Sikh gurdwara. It argues that it was with the destruction of the mosque that its sacredness was established, turning the Sikhs at once into legal enemies and theological twins. Therefore, not only are Muslims' demands to Sikhs legal, but they also imply a strong sense of moral betrayal. This chapter seeks to outline how different regimes of historicity came to shape and influence this legal

dispute over a sacred site and influenced political thinking in novel ways. From the background of the historical incident around the Shahidganj mosque, it explores how historicism settled into the Sikh political imagination and how political actors—carrying different conceptions of time—engaged with one another over the mosque dispute. By focusing on Muslims and Sikhs, this chapter breaks from the commonly held Hindu–Muslim binary that runs through much of Indian scholarship, particularly in the nationalist phase from the early-twentieth century. The involvement of several significant political figures in this conflict further allows for a more comprehensive contextualization of the Shahidganj strife in the context of India in a rapidly transforming international order. This chapter highlights how sacred spaces raised the problem of the law with its relationship to time, specifically the past. In this way, the past was primarily utilized as a legal argument for ownership. In the greater narrative, the Shahidganj mosque stood in for the crucial question of nationalist concern for territoriality, representation and the nation in time.

If the concern of the first two chapters was with concrete contestations on the ground and the repositioning of the Muslim subject back to the Indian subcontinent, Chapters 3 and 4 focus on the political thought of the two pre-eminent figures of Muslim nationalism, Muhammad Ali Jinnah and Muhammad Iqbal. Connecting local agitation to the greater national narrative, they attempt to analyse how these thinkers made sense of and promoted a special relationship with the law that has so far received little attention in historical scholarship.

Chapter 4, 'Jinnah: A Thinker of Existential Survival', seeks to outline the political thought of Jinnah in the decade preceding the Lahore Resolution in 1940, which arguably set forth the path for separation. It looks closely at some of Jinnah's lesser-known speeches and writings, to make the revisionist claim that, while Jinnah is conventionally reconstructed as a traditional legalist, there is plenty of evidence to the contrary. Jinnah's gestures to break away from the liberal language of contract and his conviction that constitutional orders were merely an expression of the will of the people—which is to say ephemeral and fleeting constructs that could not meaningfully secure any rights for minorities—bring him closer to Gandhi's political thinking than that of Jawaharlal Nehru, with whom he is more commonly grouped. More specifically, this chapter is interested in how Jinnah's actions and writings are reflective

of a particular way of modern Muslim political thought that is centrally concerned with existential survival. The language of survival became a conventional trope in the nationalistic age. For Jinnah, this survival was directly linked to the colonization of the legal order by the Hindu majority. Jinnah feared this colonization even more after the first glimpse of *swaraj* (self-rule) through the constitutional reforms of 1935. Consequentially, for Jinnah, law and legal institutions were no longer considered trustworthy spaces for the political struggle and formation of Muslims in India. Much like Gandhi, this chapter holds, Jinnah resolved that the only possible response to this form of domination was to disengage and depart altogether from the language of the law to develop a new political vocabulary that blended notions of natural rights with demands for sovereignty. Whereas Gandhi had, at least outwardly, followed nonviolent resistance, the nature and extent that Jinnah's position anticipated and implied, this chapter suggests, arguably embraced the externalization of violence as a defence for existential survival. In sum, this chapter finds that Jinnah's legal thought in the 1930s was centrally concerned with the limitations of legal compromise within national constellation and with envisioning ways through which the crushing cycle of legal violence could be escaped and interrupted.

Chapter 5, 'Muhammad Iqbal: Combative Constitutionalism', examines the political and legal thought of the poet, philosopher, and reluctant statesman Muhammad Iqbal. It focuses specifically on the central political concerns regarding Indian Muslims in late-colonial India: solidarity, constitutional republicanism, and political authority. In short, this chapter finds that there is no conceptual tension in associating Iqbal's constitutional doctrines more closely with the establishment of a sovereign state for Indian Muslims. Iqbal's critique of nationalism remains limited to what he perceived to be its disastrous European articulations. The constitutionalism that Iqbal proposes was combative. For Iqbal, the legal order had to incorporate some universal Islamic principles and, in the case of their violation, Muslims should act in defence of their legal symbols. This chapter further argues that Iqbal, very much like Syed Ahmed Khan, was sensitive towards antagonisms within societies and religious communities, terms that for Iqbal largely overlapped in India, which could not easily be absorbed through liberal political practices. If such antagonism went unchecked, it would lead to the dissolution of solidarity

among Indian Muslims. To keep religious communities alive—both Hindus and Muslims—the legal order had to recognize theological differences and act in accordance with any internal communitarian consensus brought before it, however illiberal the demands might appear. This chapter concludes that Iqbal's exclusionary constitutionalism provided a new political vocabulary that allowed Indian Muslims to conceptualize national unity. Rather than the spiritual father of Pakistan, Iqbal should be considered its primary constitutional thinker.

2

In Search of Vulnerabilities Lost

The legal and political activism that colonial India experienced in the early decades of the twentieth century produced a distinctively Muslim subjectivity. In historical scholarship two movements have conventionally been identified as having contributed to the formation of this subjectivity: first, the Khilafat Movement (1919–1923), a protest movement with the transnational aim of safeguarding the Ottoman caliphate from abolition; and, second, the increased awareness of Indian Muslims to belong to a global Islamic body (*ummah*), an abstract group that through similar ritual practices would perceive of historical experience in a similar way.[1]

While these experiences positively impacted and shaped Muslim political subjectivity, they lacked any sense of permanence and continuity in producing a political language, as they did, for instance, in the Middle East.[2] Despite a strong lobby of influential supporters and repeated attempts to push the notion of the *ummah* and the Khilafat-controversy into centrality, they have remained marginal to the Indian Muslim experience.[3] There is a marked discrepancy between the importance

[1] The Khilafat movement was a campaign launched by Indian Muslims close to the Congress Party to prevent the abdication of the Ottoman caliph. It gained momentum after the Treaty of Séveres in 1920, but collapsed after Gandhi—the undisputed figurehead of the non-cooperation movement with which Khilafat was coupled—suddenly decided to end both movements as a result of the Chauri Chaura agitations that led to the lynching of 23 policemen. Gail Minault, *The Khilafat Movement: Religious Symbolism and Political Mobilization in India* (New York: Columbia University Press, 1982); Shahid Amin, *Event, Metaphor, Memory: Chauri Chaura 1922–1992* (Berkeley, CA: University of California Press, 1995).

[2] There was a much more immediate political link that the Middle East had with the Ottoman caliph, not least because the experience of imperial domination. In the early twentieth century the Young Turks, and many Arabs who thought like them, eventually came to employ Pan-Islam as a way to boost Ottoman patriotism for a post-caliphate political system. Albert Hourani, *The Emergence of the Modern Middle East* (Berkeley: University of California Press, 1981), 181–185.

[3] One of the most prominent supporters of the Khilafat movement, the Congress leader Maulana Abul Kalam Azad, notes in his autobiography that while the project of self-rule (swaraj) and 'Khilafat problem' came to be linked in the early 1920s, the latter's symbolic force evaporated without leaving behind much residue: Maulana Abdul Kalam Azad, *India Wins Freedom: An Autobiographical Narrative* (Hyderabad: Orient Longman Limited, 1988), 19.

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historians have placed on the Khilafat movement and its actual significance for Muslim politics in the 1920s and 1930s. The following analysis suggests that it was the discourse on the Prophet Muhammad and his vulnerability that ultimately produced a stable political subjectivity.

The first part of this chapter discusses the role of the Prophet as the cornerstone of a transcendental Muslim community. It argues that his oft-assumed importance assumed a new legal and political relevance for Muslims as soon as innovations in print media in the early twentieth century led to new possibilities of mediated portrayals of the figure of the Prophet. The injury, however, could not be caused by everyone. There was an ideal perpetrator—the upper caste Hindu—as much as there was an ideal victim—the economically backward Muslim, who had lost everything but his or her faith. The figure of the Prophet was open to disputations, which could be deliberated over in the court of law. More than just through a body of ancient texts, then, the Prophet additionally emerged through disputes in Indian courtrooms.

This chapter explores how the emergence of the Prophet as a vulnerable figure, who was in need to be defended by the believers, was made politically relevant. It argues that the contestation against the legal order as it stood, not sufficiently protecting wounded Muslim feelings led to a series of direct and indirect articulations, which eventually came to solidify the socio-political category of Muslims in pre-partition India. In this process, the Hindu–Muslim question effectively entered into a new antagonistic legal debate.

The Work of the Prophet

Muslim theologians have rightly pointed out the special consideration given to the Prophet Muhammad in the Islamic faith. In recent decades the Prophet has received renewed attention as an aspect of social and cultural life that has been analysed by ethnographers and anthropologists alike. Clifford Geertz, for instance, remarked that there is an observable significance of the figure of the Prophet in Islam, and proposed viewing the role ascribed to the Prophet along with his 'doctrine of the exemplary center'. Essentially, Geertz holds that such exemplary centres—embodied as they are in a symbolic figure—disseminate 'civilisation by displaying

it'. In this way, the universal ethical code can be made particular through these culturally centralized symbols. According to Geertz, these symbols present a 'microcosmic expression of a macrocosmic form which it [the common man] can attempt (...) to imitate'. Although Geertz originally proposed this analysis specifically in the context of twentieth-century Indonesia, the structural similarity allows for Geertz's doctrine, or rather metaphor, to forward this analysis of the meaning and centrality of the concept of the Prophet in the context of socio-religious topography of late colonial India. Geertz compares his doctrine to the framework of a monarchic system of unrestrained sovereign power, in which the figure of the king plays a similar exemplary role: 'It provides a visible likeness of an invisible realm.'[4] By so doing the conceptual model of the Prophet/king provides ethical guidelines for social conduct beyond contractual aspects of social relations, and turns or creates the symbolic stage on which social relations and social order are displayed in a theatrical manner.[5]

From an aesthetically oriented perspective, one could consider the concept of the Prophet as functioning in a comparable metaphorical context: there are traces in the genealogy of what one could colloquially call Islamic arts—specifically drawing and poetry—where the Prophet is commonly described and portrayed as a symbol and representation of an ideal moral order.[6] In myths, legends, traditions, and theological texts, the image of the Prophet has further been manifested as being 'above and beyond that of ordinary men',[7] and, as Ali Asani argued, the Prophet is widely viewed as 'a model for Muslim life', the 'exemplar', 'the guide', and the 'intercessor'.[8] Claims of 'prestigious ancestry' often came to be

[4] Clifford Geertz, *Islam Observed: Religious Development in Morocco and Indonesia* (Chicago: The University of Chicago Press, 1968), 36.

[5] Clifford Geertz, *Negara: The Theatre State in Nineteenth-Century Bali* (Princeton, NJ: Princeton University Press, 1980), 11.

[6] See: Christiane Gruber, 'Between Logos (Kalima) and Light (Nur): Representations of the Prophet Muhammad in Islamic Painting', in *Muqarnas: An Annual on the Visual Cultures of the Islamic World* (Leiden: Brill, 2009), 229; Annemarie Schimmel, *And Muhammad Is His Messenger: The Veneration of the Prophet in Islamic Piety* (Chapel Hill: University of North Carolina Press, 1985).

[7] Waugh Earle, 'Following the Beloved: Muhammad as Model in the Sufi Tradition', in *The Biographical Process: Studies in the History and Psychology of Religion*, ed. Frank Reynolds and Donalds Crapps (The Hague: Mouton de Gruyter, 1976), 69.

[8] Ali S. Asani, Kamal Abdel-Malek, and Annemarie Schimmel, *Celebrating Muhammad: Images of the Prophet in Popular Muslim Poetry* (Columbia, South Carolina: University of South Carolina Press, 1995).

associated with blood ties to the Prophet.[9] They crystallized more permanently in the hierarchical structure of the vertical social order in North India.[10] Traditions of veneration also served to reproduce the Prophet as an exemplary moral centre. But the Prophet's self-actualizing aura or aesthetic authority started to crumble in the early part of the twentieth century. This was due to the innovations in information and communication media, which led to a profound shift in how textuality was itself received by Indian Muslims. The historian Francis Robinson noticed that the rise of the printing press in colonial India in the mid- to late-nineteenth century profoundly altered and transformed social and cultural understandings of texts. Robinson states that, through the increasing availability of printed material of Islamic classics, the old ways of transmitting knowledge in person-to-person networks increasingly came to be perceived as redundant.[11]

Various religious reformist thinkers in the late-nineteenth century claimed that abbreviations in the respective doctrines mainly emerged from the necessity to *verify* religious knowledge through a 'corrupting' oratorical system of transmission, thus effectively supporting a network of social hierarchies and exclusion.[12] This ideological shift allowed for pamphlets and tracts that could be inexpensively printed and widely circulated in a highly 'literacy aware' society, to acquire a quality that they did not previously possess: the supposed truthfulness of their messages.[13] This underlying belief that written words and images were effectively containers of truth questioned the uniqueness of the figure of the Prophet as historical sources could now challenge him. In this sense, the evocation of the Prophet in ritualistic settings, for instance, in the daily prayers or an ethical quest for self-perfection, came to stand in conflict with other forms of 'truth' that were captured in tracts and pamphlets. This breaking

[9] Ernest Gellner, *Muslim Society* (Cambridge: Cambridge University Press, 1981), 210.

[10] Yoginder Sikand, *Islam, Caste, and Dalit-Muslim Relations in India* (Delhi: Global Media Publications, 2004), 113.

[11] Francis Robinson, 'Technology and Religious Change: Islam and the Impact of Print', *Modern Asian Studies* 27, no. 1 (1993): 245.

[12] Kenneth W. Jones, *Socio-Religious Reform Movements in British India* (Cambridge: Cambridge University Press, 1989), 214.

[13] This suggests that the shift from *ear* to *eye* was not as complete as Robinson presumes: Charles Hirschkind, *The Ethical Soundscape: Casette Sermons and Islamic Counterpublics* (New York: Columbia University Press, 2006), 15–17. On literacy awareness, see C. A. Bayly, *Empire and Information: Intelligence Gathering and Social Communication in India, 1780–1870* (Cambridge: Cambridge University Press, 1996), 367.

away from traditional forms of knowledge production cultivated and sustained in hierarchical social settings, then, opened the space in which texts acquired the ability to transmit truth evenly.

The early decades of the twentieth century the Prophet Muhammad became central for Indian politics. Countless conversations were started on the role of the Prophet by the Majlis-i-Ahrar and the likes of Muhammad Iqbal, among others, on the doctrine of *khatam-e-nabuwwat* (finality of Prophethood). They can be seen as symptomatic of a new legal and political visibility of the Prophet.[14] The description of the following events indicates the shift, or rather a displacement, of the figure of the Prophet into the human sphere of vulnerability, where his ultimate authority could have been subjected to challenge by both internal and external communicative acts.

India and Beyond

In September 1925, a widely reprinted telegram, allegedly written by residents of the besieged city of Medina, requested support in the form of money and troops to defend the sacred geography they inhabited from the imminent threat of Wahabi invasion. Apart from the spatial destruction of holy sites, and specifically, the Prophet's tomb that was hit by Wahabi bullets, it was now, the telegram read, the very grammar of the Muslim religion that was in danger. Moreover, it asserted that the conspiracy had been plotted by the Wahabis to secretly modify the profession of faith by removing the second part of the *kalima* (Islamic profession of faith) and thereby eliminating any reference to Muhammad. This shortened version that the Wahabis allegedly propagated was a declaration of a mere universal monotheistic principle: '*La-ila-ha-il-lallah-Maleke-Youmiddin.*'[15] What makes the Muslim religion distinct from other monotheistic beliefs, however, is the second part of the *kalima,* which supplements the monotheistic principle by adding 'and Muhammad is His messenger'.[16]

[14] See only: Muhammad Iqbal, *Islam and Ahmadism: A Reply to Questions Raised by Pandit Jawahr Lal Nehru* (Lahore: Sh. Muhammad Ashraf, 1980), 17–24.

[15] 'Medina Besieged: In Danger of Starving', *The Times of India*, 12 September 1925. Roughly translated this means: 'There is no God but God and He is the Master of the Day of Judgement.'

[16] Asani, Abdel-Malek, and Schimmel, *Celebrating Muhammad: Images of the Prophet in Popular Muslim Poetry*, 5.

Notwithstanding the specific historical authenticity, what is intriguing about this telegram is that it suggests a theoretical possibility for the ontological detachment of the Prophet from the Islamic faith itself. With the rise of Wahabism, the symbolic current of the Prophet uncoupled from religious doctrine. To protect the Prophet from these historical developments, Indian Muslims ought to 'hurry to our assistance', the telegram demanded, as it was the 'duty of every individual' to relinquish 'inactivity' and 'assist' in the protection of Mecca 'with money and men' and to 'protest on our behalf to every Government'.[17]

Most Muslim newspapers in North India, however, identified the partial destruction of the Prophet's tomb as a conspiratorial plot by the British government to 'infuriate' Muslims against the colonial 'foe'. Once Muslims understood the political framework correctly, *The Light* explained, even if a 'stray bullet' were to 'unintentionally scratch' the 'Prophet's tomb', this could not immediately come to mean 'desecration'.[18] There was, however, considerable opposition to Ibn Saud's invasion of Mecca, mainly organized by sections of the *ulema* and the Sufi brotherhoods. Abdul Bari of the *Firangi Mahal*, a religious seminary based in Lucknow, for instance, founded an organization, the *Jamiat-al-Khuddam al Harmain*, for the specific purpose of assessing the damage inflicted on the sacred geography. He also wanted to rally support against what he perceived as a Wahabi raid.[19]

Around the same time when Mecca and Medina were under siege, a cartoon of Muhammad emerged, sketched by David Low. He later gained much critical appraisal with his cartoons of Hitler and Stalin, in the widely circulated newspaper *London Star*.[20] The cartoon depicted several historical figures standing next to one another on pedals in a 'Gallery of the most important historical Celebrities'. Towering in the middle was the cricketer Jack Hobbs, who had just scored his 126th century and as a result of this set a new record in cricket history. The smaller figures next to him, looking up at him in admiration, were as the plinths revealed: Adam,

[17] 'Medina Besieged: In Danger of Starving.'

[18] 'The Prophet's Tomb', *The Light*, 16 September 1925.

[19] Minault, *The Khilafat Movement: Religious Symbolism and Political Mobilization in India*, 207.

[20] Nicholas Hiley, 'Showing Politics to the People: Cartoons, Comics and Satirical Prints', in *Using Visual Evidence*, ed. Richard Howells and Robert W. Matson (Maidenhead: Open University Press, 2009), 34.

Cesar, Chaplin, Columbus, Lloyd George, and 'Mahomet'.[21] Everyone in the picture is depicted with stereotypical objects, that is, Adam with a leaf, Chaplin with a stick and an ill-fitting suit, and Cesar with bay leaves around his head. The Prophet is seen carrying an open scimitar stretching from his toes to his upper torso. Little else is visible, as the facial features are covered behind a bushy beard, revealing only the eyes and nose, with the head covered in a turban. In the days following the publication, Low received a single complaint from an Indian Imam, Abdul Rahim Dard, of the newly built London mosque. In his autobiography, Low remembers that the letter was 'indignantly worded' and protested severely against the illustration of the Prophet in a cartoon.[22] Muslim religious susceptibilities had been hurt, the letter stated, and the author and the government should apologize for this wrongdoing.

An Urdu poster appeared shortly after in Calcutta, informing Muslims about the incident and declaring that it was indeed 'incumbent on Muslims' to pass resolutions and to 'petition the British government' to intervene and reprimand the editor and author of the newspaper.[23] Like in the case of the inhabitants of Medina, the ethical duty to petition governments seems to indicate further the shift of the Prophet into the realm of politics. Here he emerged as a force that could, on the one hand, control and structure the lives of Muslims and, on the other, through universalizing the ethical framework, govern the speech and actions of others. The indication for 'being Muslim' was transferred from a spiritual idea to a phenomenological one, which found its basis in the fulfilment of political duties in defence of the Prophet. To calm Muslim feelings, Jack Hobbs wrote a letter to the Imam of the London mosque expressing the pain he felt when he saw the cartoon. Dard acknowledged the letter and wrote in reply that Hobbs's words were 'soothing' to the injured sentiments of the 'whole Muslim world'.[24]

These global accounts indicate that the feelings of outrage were not constrained by geographical distance, as actors in Mecca or London were

[21] David Low, 'IT', *The Star*, 18 August 1925.
[22] David Low, *Low's Autobiography* (New York: Simon & Schuster, 1957), 123.
[23] 'Calcutta Moslems: Alleged Insult to the Prophet Mahomed', *The Times of India*, 12 October 1925.
[24] 'An Objectionable Cartoon: Jack Hobbs Soothes Feelings of Muslims', *The Strait Times*, 24 October 1925.

seen as relevant to an Indian Muslim experience. The persistent calls to petition governments for intervention furthermore tell us about how Muslims increasingly perceived themselves as political subjects endowed with legal rights. However, these politics of interest that can be negotiated in the liberal language of law helps to explain only one dimension of this event. In the case of the first cartoon controversy, it was Hobbs's letter that set an immediate end to the Calcutta protests. This reaction implies that the public exhibition of Muslim suffering, at least in parts, was seeking a 'symbolic withdrawal', or some other form of *recognition* of the insult, rather than formal legal protection or compensation.[25]

Rangila Rasul

The 1924 publication of the 24-page pamphlet entitled *Rangila Rasul* (the colourful Prophet)[26] by Lahore-based bookshop owner Mahashe Rajpal, an active Arya Samajist, resulted in unprecedented outrage in the local press, thereby fuelling religious hostility and antagonism in colonial Punjab.[27] Vernacular newspapers, especially those published in the Punjab, increasingly became charged along religious lines and were both reflective of, and contributed to, intense confrontations in the 1920s.[28] The Arya Samaj, a Hindu revivalist movement and an influential group in shaping public opinion in the Punjab, was printing five papers from Lahore alone,[29] competing against numerous other publications by different reformist groups that were circulated on a daily basis.[30]

[25] Faisal Devji, *The Terrorist in Search of Humanity: Militant Islam and Global Politics* (London: Hurst & Company, 2008), 165.

[26] The literal translation misses the strong sexual connotation of the word *Rangila* and has therefore rightly been translated by Ayesha Jalal to mean 'The Playboy Prophet'. The very word 'play' as such *rangila,* which could be translated as 'libertine' and *rasul* as 'envoy of God to mankind', marks a contradiction in terms: Ayesha Jalal, *Partisans of Allah: Jihad in South Asia* (Cambridge, MA: Harvard University Press, 2008), 243.

[27] Girja Kumar, *The Book on Trial: Fundamentalism and Censorship in India* (New Delhi: Har-Anand Publications, 1997), 48.

[28] N. Gerald Barrier, *Banned: Controversial Literature and Political Control in British India 1907–1947* (New Delhi: Manohar, 1976), 93.

[29] *The Activities of the Aryas in India*, MS.12722, May 1909 to December 1910, *The Indian Papers of the 4th Earl of Minto,* National Library of Scotland.

[30] Jones, *Socio-Religious Reform Movements in British India*, 215.

The name of the author of *Rangila Rasul* remained unknown for some decades, as Rajpal did not disclose it during the court proceedings. Arya Samaj historians have now come to identify the author as Pandit Chamupati, a member of the teaching staff at Swami Shraddhanand's school, the Gurukul Kangri, and a high-standing official among the Aryas.[31] The text contained a satire of the Prophet's domestic life. After the initial outrage within the Muslim community following distribution of the pamphlet, Rajpal was charged with promoting enmity among different classes by defamation under Section 153A of the Indian Penal Code. However, Justice Singh ruled that defamatory words levelled against the Prophet Muhammad did not automatically constitute defamation of his religious following as a group. Thus, Rajpal was acquitted in the court of appeal.

The following analysis of the historical events surrounding the *Rangila Rasul* court case suggests that it was this acquittal, itself widely reported in newspapers throughout North India, as well as the colonial state's denial to *recognise* Muslim provisions and sentiments as a community of believers, that resulted in outrage and later riots in Lahore, which later informed the implementation and framing of Section 295A into the Indian Penal Code.[32] This novel piece of blasphemy legislation read:

> 295A. Whoever, with deliberate and malicious intention of outraging the religious feelings of any class of His Majesty's subjects, by words, either spoken or written, or by visible representations, insults or attempts to insult the religion or the religious beliefs of that class, shall be punished with imprisonment of either description for a term which may extend to two years, or with [a] fine or with both.[33]

The institutionalization of agitation politics that took the form of this provision was significant. It protected sentiments from being offended and ensured 'peace and stability', and it contained an explicit and highly symbolic recognition of 'the Muslim' as a legal subject. This official

[31] Gene R. Thursby, *Hindu-Muslim Relations in British India: A Study of Controversy, Conflict, and Communal Movements in Northern India 1923–1928* (Leiden: Brill, 1975), 43.

[32] 'The Criminal Law Amendment Act, 1927 as passed by the Indian Legislature' in P&J 2403 1927, IOR/L/PJ/6/1941, British Library, London.

[33] Ibid.

recognition inherently contributed to the construction of the 'Muslim' legal and political agent. In this sense, the following analysis suggests that the socio-legal context of the *Rangila Rasul* court case constitutes a space for the renegotiation of the category of Muslim politics, their encoding in the language of vulnerability, and the subsequent requirement for defence. While the nature and process of regulation—the relationship between societies and their laws and norms—is in itself a complex and perhaps somewhat dialectical issue, the dynamics involved in the case and the aftermath of *Rangila Rasul* are intertwined and, as the following suggests, display several paradoxical elements.

David Gilmartin, for example, identifies the cultivation of Muslim emotions as standing in antagonism to both the ideology of a 'scientifically' coded colonial legal and political structure, and to Muslim reformist ambitions, as these modalities of thought place emphasis on rational self-control. Gilmartin suggests that it was inner desires and emotions that were constitutive of the emergence of a Muslim community, tied together with an autonomous 'expression of the heart' as a 'community of feelings',[34] rather than them being united by a state-sponsored 'rational mind'.[35] In other words, Gilmartin identifies 'emotionality' as a distinct sphere with the capacity to escape the colonial structure and relying heavily on 'older Islamic traditions' that became visible in a novel politics of action in public rallies. This, however, leads to an Orientalist essentializing that reifies the notion of rationality and links it to the colonial state. Native subjects are inherently irrational and driven by 'expressions of the heart'.

Nonetheless, as pointed out by Asad Ahmed, the case of *Rangila Rasul* offers an early example of the ways in which colonial law framed, enabled, and constituted sensitive religious sentiments. Specifically, Ahmed stressed that colonial law required plaintiffs to prove that their sentiments had been injured and therein forced an open 'demonstration of emotionality' that could then be regulated and engendered through the judicial process.[36] In this sense, Ahmed identifies the nature of the public display

[34] 'National Awakening', *The Light*, 16 July 1927.

[35] David Gilmartin, 'Democracy, Nationalism and the Public: A Speculation on Colonial Muslim Politics', *South Asia: Journal of South Asian Studies* 14, no. 1 (June 1991): 133.

[36] Asad Ali Ahmed, 'Specters of Macaulay: Blasphemy, the Indian Penal Code, and Pakistan's Postcolonial Predicament', in *Censorship in South Asia: Cultural Regulations from Sedition to*

of emotions in the context of the *Rangila Rasul* case as a reflex to the regulating force and structure of the colonial legal system.

To understand the complicated relationship between socio-religious struggles to law, it is furthermore useful to revert to the anthropologist Christopher Pinney's concept of 'fugitive politics'. In this Pinney emphasizes the force of 'reflexive interventions' in response to colonial power through which subalterns came to 'produce a culture of their own'. In pre-colonial India, he argues, the hegemonic discourse 'fused religion and politics into a unified lifeworld', which was subsequently drastically interrupted by the surveillance and censorship apparatus implemented through colonial law. The colonial attempt to allow more freedom in the religious sphere, in order to promote an apolitical civil life, inadvertently disturbed the previously existent natural symbiosis between religion and politics and led to a 'deadly cosmo-politics'—the cure creating the disease, or 'iatrogenesis', as Pinney puts it.[37]

The formal legal sphere enforced and staged by the colonial power constitutes a particular discourse,[38] or a communicative system,[39] that functions according to Eurocentric processes of knowledge formation. Such systems can endow specific individuals, groups, or claims with recognition and actively construct subjectivities and legitimize agency.

Yet, the following historical analysis suggests that the political dynamics of the court case of *Rangila Rasul* can be understood based on the tropes of recognition and vulnerability—which were central modes or sites of the formation of political subjectivity. They cannot be exhaustively accounted for by the discourse analysis suggested by Pinney or Ahmed. In this sense, the 'united' expressions of disparate Muslim historical actors articulate a productive and robust desire for the recognition of symbolic vulnerabilities. They do not seek to instrumentally advance Muslim

Seduction, ed. Raminder Kaur and William Mazzarella (Bloomington: Indiana University Press, 2005), 173.

[37] Christopher Pinney, 'Iatrogenic Religion and Politics', in *Censorship in South Asia: Cultural Regulations from Sedition to Seduction*, ed. Raminder Kaur and William Mazzarella (Bloomington: Indiana University Press, 2009), 29–30.

[38] Jürgen Habermas, *Between Facts and Norms: Contributions to a Discourse Theory of Law and Democracy, Contributions To a Discourse Theory of Law and Democracy* (Cambridge, MA: Massachusetts Institute of Technology Press, 1996).

[39] Niklas Luhmann, *Ausdifferenzierung Des Rechts: Beiträge Zur Rechtssoziologie Und Rechtstheorie* (Frankfurt am Main: Suhrkamp Verlag, 1999).

political interests or strategies of religious separatism in the arena of the law. Therefore, political speech in the Muslim vernacular press of North India was not primarily concerned with silencing and constricting defamatory speech against the Prophet. In fact, the transposition of these statements and speech acts into the formal legal sphere of colonial Punjab inadvertently drew further attention to the pamphlet and its content, thus effectively endowing the defamation of the Prophet with an even more stable and salient position in the public sphere. It appears that Muslims fuelled discussions of a highly sensitive and controversial nature to arrive at an authoritative determination of the moral status of such statements. In so doing, they negotiated their position within the complexities of the formal legal, socio-religious, and political fields of colonial Punjab. The Prophet's honour—at least a specific dimension of it—was thus put up for discussion in the pursuit of recognition of Muslims as independent legal and political actors endowed with agency.

The *Rangila Rasul* pamphlet started gaining increased public recognition with Gandhi's explicit reference to, and condemnation of, the booklet in 1924. Gandhi's relationship with the Arya Samaj had been somewhat strained after his outspoken critique of the *Satyarth Prakash,* written by the founder of the movement Dayanand Saraswati. Gandhi had repeatedly called it a 'disappointing book' that was 'unconsciously misrepresenting' various religions of India, including Hinduism itself.[40] In a letter to a Muslim friend, Gandhi acknowledged the highly offensive character of the title of *Rangila Rasul*, as well as its content, in the following statement:

> The very title is highly offensive. The contents are in keeping with the title. I cannot without giving offence to the reader's sense of the fine give the translation of some of the extracts. I have asked myself what the motive [could] possibly be in writing or printing such a book except to inflame passions. (…) As a contribution, therefore, to the religious propaganda work, it has no value whatsoever.[41]

[40] *The Collected Works of Mahatma Gandhi: XXIV (May–August 1924)* (New Delhi: The Director, Publications Divisions Ministry of Information and Broadcasting Government of India, 1967), 145.
[41] Ibid., 261.

For Gandhi, what had fuelled these debates was the missionary desire in the fabric of both Hindu and Muslim reformist movements that expressed itself in attempts to seduce the religious other to conversion through their respective rituals of *shuddhi* (purity) and *tabligh* (religious preaching). This, Gandhi states had threatened his ideal of Hindu–Muslim unity necessary for *swaraj* (home-rule).[42] While in principle, Gandhi was not opposed to the idea of conversions and rejected social stigmatization or legislative punishment for apostasy, he nonetheless sharply criticized the form in which these debates occurred in the Punjab, the alleged 'seat of all trouble',[43] with 'filthy', and 'abusive language' at its core.[44] Yet, holding that 'all religions are more or less true' and stem from the same God, Gandhi concluded that the aim of ethical duty should be to arrive at moral perfection in one's faith, which, in turn, would establish the precondition for communal harmony under an umbrella of friendship.[45] In this sense, Gandhi believed in conversion, only in so far as it indicated the adoption of—as opposed to replacement through—another religion. Gandhi's solution to this delicate issue was thus ultimately sacrificial. He encouraged local leaders of both religious groups to distribute 'clean literature' in praise of the other religion to create an atmosphere of mutual respect and tolerance.[46]

Notwithstanding Gandhi's moralist intervention, the *Rangil Rasul* controversy experienced a rise in what had initially appeared to be a local dispute between the Arya Samaj and a local Muslim reform movement. A feud which resulted in a formal legal complaint being registered against Rajpal in July 1924 by the colonial administration. In October of the same year, fourteen Muslim witnesses were summoned in front of the local magistrate to express their feelings about the pamphlet. The judge wanted to determine whether he could subsume Muslim rage under the legal vocabulary of Section 153A of the Indian Penal Code and whether the booklet had promoted hostility between different classes of His Majesty's subjects. The question of intent regarding the incitement of violence soon gained significance in the legal proceedings, and Rajpal's defence

[42] Ibid., 153.
[43] Ibid., 138.
[44] Ibid., 150.
[45] Ibid., 149.
[46] Ibid., 261.

attorneys were quick to assert that Rajpal had never *intended* to injure or hurt the religious feelings of Muslims, but was only trying to conduct missionary work. To prove intent, the government advocate, Zafrullah Khan, proposed that the central legal concern should focus solely on the reaction that this pamphlet had triggered in the Muslim communities, and should disregard the matter of any potential historical accuracy of its content. Zafrullah argued this perhaps out of the foresight that bringing questions of historical accuracy into the legal scope would enable Rajpal to spread the content of the pamphlet to an even wider audience. Rajpal could use the court as a stage to propagate his message, and in so doing, he could potentially succeed in judicially manifesting liminal notions of historical truth.

However, the trying magistrate, C. H. Disney, held that historical facts were necessary for any consideration to delineate the accused's intention. The higher court also supported this legal opinion after Zafrullah Khan appealed the judge's decision and sought clarification in the matter. This effectively allowed the courtroom to be turned into a history seminar.[47] In his first defence, Rajpal stated that he had not written the pamphlet himself but published it without knowledge of the content. He maintained that it had primarily aimed to depict historical facts that might aid Muslims in the removal of 'polygamy, concubinage, mutaa and the gross disparity of age in marriage'. Rajpal also wanted to convey to the people of India that for him there was a better alternative to such 'corrupt' religious systems, namely Hinduism. Also, Rajpal held that 'much more offensive' comments had been passed about the Prophet in the writings of European writers that had not been reprinted in the book, where the aim was primarily to ground it in the Quran and the writings of eminent Muslim scholars.[48]

The problem of intentionality regarding the promotion of enmity or hatred between different classes of His Majesty's subjects was circumvented by Magistrate H. L. Phailbus, who sought to detect the intentions from the 'words and the style of the pamphlet itself'.[49] He ruled that 'every line' in the *Rangila Rasul* was 'prompted by malice' and was a result of

[47] The Crown vs. Rajpal in 'Indian Law Reports: Lahore Series Volume VII' (Lahore, 1926), 16.
[48] Raj Paul vs. Crown, P&J 1576 1927, IOR/L/PJ/6/1941, British Library, London.
[49] Ibid.

'hatred against the Prophet and the religion promulgated by him'.[50] On 18 January 1927, Rajpal was therefore sentenced to eighteen months' 'rigorous imprisonment' and a fine of 1,000 rupees. Rajpal, or rather his legal councils, consisting of Dr Gokul Chand Narang and Badri Das, both fellow Arya Samjists, immediately appealed against this ruling.[51] In the first stage of appeal the Session Judge, Col. F. Nicolas, upheld the conviction but reduced the sentence to six months' imprisonment because too much time had elapsed since the pamphlet had been published and that it had not been widely circulated.[52] Following the local magistrate, Judge Nicolas found that the portrayal of the Prophet was 'intentionally offensive, scurrilous, and wounding to the religious feelings of the "Mahomedan" community, and that it was undoubtedly malicious in tone', and that the intention, therefore, had been to 'wound and insult the feelings of a particular community'.[53] After an appeal against this sentence, Rajpal's case was heard at the High Court of Lahore, with Dulip Singh as the appointed judge in the matter. Singh was a graduate of Forman Christian College, Lahore, and Pembroke College, Cambridge, and the youngest son of Sir Raja Harnam Singh of Kapurthala.[54] In his ruling, Singh held that the pamphlet was 'a scurrilous satire on the founder of the Muslim religion'. However, he maintained that there was hardly any scope to interpret the book in a way that 'it was meant to attack the Mohomedan religion as such', or that it would promote the notion to 'hold up Mohamedans as objects worthy of enmity or hatred'. While the pamphlet could 'only arouse the contempt of all decent persons of whatever community', it could, however, not be taken for granted that it would 'necessarily promote feelings of enmity and hatred between different classes of His Majesty's subjects'.[55] Furthermore, Dulip Singh stated that

[50] Ibid.

[51] Maybritt Jill Alpes, 'The Congress and the INA Trials, 1945–50: A Contest over the Perception of "Nationalist" Politics', *Studies in History* 23, no. 1 (1 January 2007): 143; Ram Lal Tara, 'Sir Gokul Chand Narang', in *Punjab's Eminent Hindus*, ed. N. B. Sen (Lahore: New Book Society, 1943), 36.

[52] Raj Paul vs. Crown, P&J 1576 1927, IOR/L/PJ/6/1941, British Library, London.

[53] Nath Nripedndra Mitra, ed., *The Indian Quarterly Register: Vol I [Jan.–June 1927]* (Calcutta: The Annual Register Office, 1927), 90; 'Indian Law Reports: Lahore Series Volume VII', 16.

[54] Susan Billington Harper, *In the Shadow of the Mahatma: Bishop V.S. Azariah and the Travails of Christianity in British India* (Surrey: Curzon Press Ltd., 2000), 84.

[55] V. V. Chitaley, ed., *The All India Reporter 1927: Lahore Section* (Nagpur: All India Reporter Press, 1927), 590.

Muslim anger should have been directed against the author of the book and not its publisher, the former being unknown at this point.[56]

Additionally, Singh ruled that the 'satire on the founder of a religion' does not necessarily imply 'a satire on the followers of that religion'.[57] The purview of 153A, Singh dissected, was aimed at defamatory words directed against 'Muhammadans as a class', not against their Prophet.[58] The argument brought by the prosecution had sought to argue that Muslims were particularly prone to be hurt by insults levelled against their Prophet, but, according to Singh, the 'ignorance and fanaticism of a particular community', or the way in which Muslims reacted to the publication, could not be considered as determining the very 'nature of the act' itself. Strictly speaking, Singh reasoned, an expansive interpretation of 153A would also come to comprise any 'serious' scholarly research undertaken by 'historians' that mentioned the Prophet in his historicity.[59] To establish a more efficient legal framework, and specifically, to prosecute offenders that could not be tried under 153A, Singh suggested that 'a clause might well be added to Section 295 by which the publication of pamphlets published with the intention of wounding religious feelings of any person or of insulting the religion of any person might be made a crime'.[60] For these reasons, Justice Singh, to use his own words, 'reluctantly accepted' the revision and acquitted Rajpal of all charges that had been brought against him.[61]

The next weeks saw unprecedented visibility of Rajpal's acquittal in vernacular newspapers in North India, and several Muslim groups petitioned the government to intervene.[62] Already heated group sentiments after the Shivaji anniversary in May led to demonstrations and riots that

[56] Raj Paul vs. Crown, P&J 1576 1927, IOR/L/PJ/6/1941, British Library, London.
[57] Ibid.
[58] Ibid.
[59] Ibid.
[60] V. V. Chitaley, ed., *The All India Reporter 1927: Lahore Section* (Nagpur: All India Reporter Press, 1927), 593.
[61] Raj Paul vs. Crown, P&J 1576 1927, IOR/L/PJ/6/1941, British Library, 518.
[62] See only: 'Rangila Rasul Ke Fasleh Par Azhare-Nafrat: Musalman Ka Doosra Aam Jalsa', *Hamdard*, 15 July 1927; 'Rangila Rasul Ka Faislah Aur Us Ke Natayej', *Al Jamiat*, 2 June 1927; 'Musalman Rangila Rasul Ke Faisle Se Baukhla Uthe Hain', *Vartman*, 4 July 1927; 'Kunwar Dulip Singh Sahib Ke Faisle Par Naszre Saani', *Milap*, 3 July 1927; 'The Rangila Rasul Affair', *The Tribune*, 10 July 1927. For an overview of resolutions passed by various Muslim committees, see: 'Indignation against Rajpal Judgment', *The Light*, 16 August 1927; 'Kitab Rangila Rasul Ke Khilaf Ahtajaj', *Al Jamiat*, 2 July 1927.

were vigorously broken down by the Punjab Police.[63] These violent disturbances, specifically in Lahore, were further fuelled by the murder of four Muslims, which had purportedly taken place in 'retaliation' of an alleged rape of a Sikh woman, on the same day that the *Rangila Rasul* judgment was announced.[64] Questions on Singh's impartiality arose quickly. The Chief Justice of the Lahore High Court, Sir Shadi Lal, vouched for Singh's moral integrity and impartiality.[65] This seemed ironic to Muslims, as Singh was seen to have acquitted Rajpal precisely to 'please' the Chief Justice and become a permanent member of the court.[66]

Two Lahore-based daily newspapers, the *Muslim Outlook* and the *Paigham-e-Sulh,* were particularly outspoken in their criticism of the judgment.[67] An article was published in the *Muslim Outlook*, with the heading '*Resign!*', demanding that Singh vacate his seat as a result of his judgment in the *Rangila Rasul* case.[68] The author of this article, Syed Habib, insinuated that 'an inquiry should be made into the extraordinary circumstances in which that judgment had been written'.[69] Syed Habib further held that he had acted in conformity with the colonial legal order, as 'it was a right of the Press' to 'ask a judge to resign who' had 'blundered so grievously'.[70] The *Paighame-e-Sulh*, a Lahore-based Muslim daily, asserted in an article published on 15 June 1927 that the government had become impotent to react to vicious attacks on the Prophet and had therefore lost its legitimacy to govern the Muslims of India. The 'shock' suffered by Muslims after the publication, the article read, was nothing compared to the shock that resulted from Rajpal being acquitted. Millions of Muslims were left doubting whether they could continue their lives in India, a place where the honour of the Prophet could no

[63] 'Lahore Riots', *The Tribune*, 9 June 1927.

[64] H. D. Craig to The Secretary to the Government of India, 6 August 1927, IOR/L/PJ/6/1941, British Library, 290. A different figure is given in *The Light,* with four Muslims wounded and three murdered: 'Maulana Muhammad Ali on Lahore Riots: There Would Have Been No Riots', *The Light*, 1 June 1927.

[65] Lord Winterton, 26 June 1927, Minute Paper, IOR/L/PJ/6/1941, British Library, 521.

[66] 'Commission of Inquiry', *The Light*, 1 July 1927.

[67] 'Muslim Outlook Ka Muqadamah', *Al Jamiat*, 24 June 1927.

[68] ' "Muslim Outlook" Contempt Case: High Court Judgement', *The Tribune*, 24 June 1927. Parts of the article are also reprinted in: 'Muslim Outlook Ka Wo Mazmoon Jisse Toheen-E-Adalat Karar Diya Kya', *Al Jamiat*, 29 June 1927.

[69] ' "Muslim Outlook" Contempt Case: High Court Judgement'.

[70] ' "Muslim Outlook" Case', *The Tribune*, 23 June 1927.

longer be considered 'safe'.[71] *The Light*, a Lahore-based weekly, published by a Muslim reformist movement, explicitly called for violence against Rajpal by drawing a direct parallel between his destiny and that of Swami Shraddhanand, an Arya Samaj preacher who had recently been assassinated by a Muslim youth, Abdur Rashid. 'Nothing could be more stupid', *The Light* issued on 1 June 1927, than to acquit Rajpal with the legal reasoning provided by Singh, who, the paper claimed, had lost touch with society by viewing 'humanity' only through the 'High Court windows'.[72]

Soon, the economic and socio-political 'backwardness' that Muslims faced in Lahore was altogether labelled 'Rajpalism', emphasizing the symbolic current of the controversy and effectively reducing every Hindu to the figure of Rajpal. The only force that could liberate Muslims from this 'monstrosity', *The Light* proposed, was for every Muslim to turn into 'Abdur Rashid', the young man who had murdered Swami Shraddhanand.[73] Muslims ought to embrace the language of action with 'a strong arm' and bright 'steel' to confront this 'monstrosity' and 'cut it clean through', and should, *The Light* published on 16 August 1927, finally let go of their 'pious sermons, high sounding resolutions, conferences' and 'parleys'.[74] The authors and editors of the *Muslim Outlook*, Syed Habib and Dilawar Shah Bukhari, and the editor of *The Light*, Mohammad Yakub Khan, were sentenced for contempt of court and incitement of violence, respectively. However, their outspoken hostility to the government continued to be widely celebrated by the Muslim press of Lahore.[75]

What is interesting about the legal proceedings following the publications is that the accused did not seek to defend the very articles they had written, published, or edited. Just like Rajpal, they all tried to deny their contribution to these articles or reconceptualize their statements as conforming to the legal code. In so doing, legal rationality was pushed to absurd limits in that, for instance, straightforward calls for action were

[71] 'Muqadama Rangila Rasul: Musalmano Ke Dil Paash Paash Ho Rahe Hain', *Paigham-E-Sulha*, 15 June 1927.

[72] 'A Cowardly Government', *The Light*, 1 June 1927; 'High Court Logic: Premium on Obscenity', *The Light*, 1 June 1927.

[73] 'Fight to the Finish', *The Light*, 16 August 1927.

[74] Ibid.

[75] '"Muslim Outlook" Case: Editor and Printer Sentenced', *The Tribune*, 23 June 1927; 'The Arrest of Maulvi Mohd. Yaqub Khan', *The Light*, 16 September 1927; 'Case Against the "Light": Conviction of the Accused', *The Light*, 5 January 1928; 'Muslim Outlook Ke Editor Ko Sazaa', *Paisa Akhbar*, 30 June 1927.

reinterpreted in court as metaphors for a peaceful protest. This defensive disavowing of their connection and responsibility did surprisingly not cause any damage to their martyr-like veneration in speeches, articles, and public rallies.[76] In reaction to the demonstrations, and to assert colonial power, public gatherings of more than five people were, under Section 144 of the Code of Criminal Procedure, no longer permitted in Lahore. The perpetually evoked irrationality that was allegedly underlying these sentimental outbursts of Muslims was further fuelled through open acknowledgements by Muslim public figures that seemingly justified any violent and destructive behaviour.[77]

On 22 June 1927, a meeting was organized with roughly fifty thousand participants in the Delhi Gate Park opposite the Jama Masjid, in protest at Singh's decision.[78] Mohamed Ali, the Aligarh and Oxford-educated Muslim publisher and one of the leading Muslim intellectuals in support of the Khilafat movement, positively endorsed the masses not to temper their feelings: the *Rangila Rasul* incident had touched the greatest of Muslim sensitivities, much greater than the Khilafat issue, and therefore Muslims were no longer responsible for their actions, as an insult to the honour of the Prophet had put them, Ali argued, outside the normative legislative framework of the colonial state.[79] For Muslims, 'all earthly activities', Mohamed Ali concluded, 'depend on their faith in Mohamed', and therefore 'the Hindus' and 'the government' should know that all 'worldly relationships' terminated 'when the life and soul of Islam was reviled'.[80]

In an article published in the Urdu weekly *Hamdard*, Mohamed Ali further investigated the question of the 'injustice' of the acquittal of Rajpal. For Mohamed Ali, the incident could not be attributed to an individual shortcoming of the judge, but it had to be read as a systemic problem within the framework of governmental legal policies.[81] While asserting that he had not read the pamphlet, but was making his statements based

[76] 'Muslim Outlook Ka Muqadamah'; ' "Muslim Outlook" Case', *The Tribune*, 24 June 1927; 'An Open Letter to the High Court', *The Light*, 1 July 1927.
[77] 'Rangila Rasul Ka Faislah Aur Us Ke Natayej'; 'Hum Is Waqt Kisi Kanoon Ke Mutahit Nahi', *Milap*, 31 July 1927.
[78] 'An Open Letter to the High Court'.
[79] Mitra, *The Indian Quarterly Register: Vol I [Jan.–June 1927]*, 92.
[80] Ibid., 93.
[81] Mohammad Ali, 'Rangila Rasul', *Hamdard*, 27 June 1927.

on the title of the booklet alone, he demanded strong legislation to prevent such incidents from occurring in the future.[82] To constructively discuss potential amendments to the existing body of laws, Mohamed Ali invited all Muslim members of the Indian legislature to a conference in Delhi.[83] These legal measures, however, were seen as only the first step in a much longer process that could eventually lead to a wider recognition of vulnerabilities. The lengthy public discussion served as a path for preventing acts like these happening in the future. But they also gave publicity to the issue that had arisen from the *Rangila Rasul* publication. Thus, in the legislative assembly, a Mohammedan representative from the United Provinces, while supporting blasphemy legislation in general, put it in the following words: 'I, as a Mussalman, do feel utter humiliation in seeking the protection of my Holy Prophet through a Legislature which cannot protect itself.'

Disenchanted Khilafatists started using the language of vulnerability to direct their anger against Hindus.[84] Particularly in the NWFP, the political wing of the Dar-ul Ulum Deoband, the *Jamiyatul Ulama Hind*, found support in an overwhelmingly Muslim province, to organize and stage action against Hindus and Sikhs, with a widespread economic boycott of both communities.[85] In several sermons given by the Deobandi Mullah of Chaknawar—particularly influential among the Mohmands and some Shinwari clans—who had travelled through Lahore and been charged with the *Rangila Rasul* controversy,[86] he carried an edition of the Lahore daily, *Zamindar,* into the tribal territories and encouraged the tribesmen to expel their Hindu population altogether.[87] This resulted in several hundred Sikhs and Hindus being driven out of the Kuki Khel and Zakka

[82] Mohammad Ali, 'Tachriat-Hind Mein Foran Azaafa Kiya Jaye: Aur Toheene Anbiyaan Aur Bazoorkian-E-Din Aur Ko Juram Bana Diya Jaye', *Hamdard*, 29 May 1927.

[83] Afzal Iqbal, *Life and Times of Mohamed Ali: An Analysis of the Hopes, Fears and Aspirations of Muslim India from 1878–1931* (Delhi: Idharah-i-Adabiyat-i-Delli, 1972), 349.

[84] Sana Haroon, 'The Rise of Deobandi Islam in the North-West Frontier Province and Its Implications in Colonial India and Pakistan 1914–1996', *JOUR, Journal of the Royal Asiatic Society*, Third Series, 18, no. 1 (1 January 2008): 51.

[85] 'Hindus Evacuate Frontier: Humiliating Terms Offered by Tribes', *The Tribune*, 5 August 1927.

[86] Sana Haroon, *Frontier of Faith: Islam in the Indo-Afghan Borderland* (London: Hurst & Company, 2007), 77.

[87] 'Position of Hindus in the Frontier', *The Tribune*, 20 August 1927; Dietrich Reetz, 'Muslim Concepts of Local Power and Resistance: Islamic Militants in the Indian Frontier Province between 1900 and Independence', in *Essays on South Asian Society, Culture and Politics*, ed. Bernt Glatzer (Berlin: Das Arabische Buch, 1998), 61.

Khel territories.[88] In contrast to wealthy Hindu traders, based primarily in the urban areas of the NWFP, the Hindus who were forced to leave had been deeply interwoven into the tribal fabric of these Afredi clans. They formed part of the micro-economical exchanges, and the clans depended on their monetary funds.

The act of separating these tribal affiliates who had resided alongside Muslims for centuries was aptly described by the correspondent of the *Times of India* as 'self-sacrifice for the sake of religion more than of hot retaliation for an insult'.[89] These refugees primarily worked as money-lenders, and because it was against the customs of the tribesmen to borrow money from their immediate kin, the Hindu refugees had formed a consecutive cornerstone of tribal economy.[90] After the political mobilization of the Deobandis and Khilafatists forces truncated, it took another three months for the exiled Hindus and Sikhs to return to their former houses.[91] On 10 July 1927, an assembly was held at the Badshahi mosque in Lahore, with roughly ten thousand Muslim participants who had gathered in protest.[92] Some former Khilafatists thought that a civil disobedience campaign would be best suited to increasing pressure on the government to free the journalists that had been in custody for their outspoken criticism and to demand that Singh should immediately resign from his post.[93] Muhammad Iqbal, the poet-philosopher credited with providing the ideological background for a Muslim homeland on Indian soil, advised people to use the injury of the Prophet (vulnerability) as a unifying moment. Muslim should not too hastily embrace a 'civil disobedience campaign that would' only 'further fracture the community'.[94] However, Iqbal was repeatedly interrupted by slogans calling for a redirection of anger towards the government, who many saw as the real culprit, and urging people to reunite with the Hindus in another civil

[88] 'Hindus on Frontier', *The Times of India*, 9 September 1927.

[89] 'Trouble on Frontier: Tribes Protest Appeal for Withdrawal of Hindus', *The Times of India*, 30 July 1927.

[90] 'Hindus on Frontier'.

[91] Neeti Nair, 'Beyond the "Communal" 1920s: The Problem of Intention, Legislative Pragmatism, and the Making of Section 295A of the Indian Penal Code', *Indian Economic & Social History Review* 50, no. 3 (7 August 2013): 329.

[92] 'Musalmano Ka Badshahi Masjid Mein Jalsa', *Milap*, 7 July 1927.

[93] 'In Defence of the Prophet: Muslims Protest', *The Times of India*, 4 July 1927.

[94] Julia Stephens, 'The Politics of Muslim Rage: Secular Law and Religious Sentiment in Late Colonial India', *History Workshop Journal* 77, no. 1 (Spring 2014), 9.

disobedience campaign. The Hindus, one of the slogans went, 'are our brothers', and the 'British' were solely to blame for the situation.[95]

For Indian Muslims, according to Iqbal, the shaping of their senses to perceive phenomenological events in a unified manner, and with a single spirit, was crucial to constitute a socio-religious and thus political unity. Being a territorially, ethnically, and linguistically fragmented community, Iqbal proposed that Muslims embrace the vulnerability of the Prophet and use its transformative force to produce a collective Muslim subjectivity. This view is specifically prevalent in his later correspondence with Jawaharlal Nehru, a nationalist leader of the Indian Congress Party, where Iqbal explained the vital role that the Prophet. Iqbal argued that the ontological vulnerability in the hierarchical structure of Prophethood allowed Indian Muslims to constitute a feeling of solidarity.[96]

This thought is repeated, for example, in Iqbal's presidential address of the All India Muslim League at the Allahabad session in 1930. There Iqbal stated that Muslims of India had undergone 'the basic emotions which gradually unify scattered individuals (…) and finally transform them into a well-defined people, possessing a moral consciousness of their own'.[97] After the gathering, a delegation consisting of representatives of various Muslim sects, including Muhammad Iqbal, was formed to meet the Governor of the Punjab, Malcolm Hailey, and persuade him to intervene in the matter.[98] The injury that was inflicted upon Muslims, they demanded, could only be healed if the government were to protect Muslim feelings in the future.[99] However, in the case that the demand to recognize this vulnerability was not met, the Muslim representatives threatened, they could not vouch for public tranquillity.[100] Governor Hailey seemed arguably more inclined towards Bentham's view on the protection of religious sentiments through legislation. Jeremy Bentham had famously categorized the 'exhibitions of obscene or blasphemous print' as a 'simple

[95] Abdullah Malik, *Puraani Mahfele Yaad Arahin Hai* (Lahore: Takhliqaat, 2002), 73.

[96] This theme is further explored in Chapter 4[COMP: Link this section].

[97] Latif Ahmed Sherwani, ed., *Speeches, Writings and Statements of Iqbal* (Lahore: Iqbal Academy Pakistan, 1977), 4.

[98] '"Rangila Rasul" Judgement: Aftermath-Deputation to the Governor', *The Tribune*, 16 June 1927.

[99] Sir Muhammad Iqbal to Sir Fazl-i-Husain, 13 June 1927, in Waheed Ahamd, ed., *Letters of Mian Fazl-I-Husain* (Lahore: Research Society of Pakistan: University of the Punjab, 1976), 28f.

[100] Javed Iqbal, *Zinda Rood* (Lahore: Iqbal Academy Pakistan, 1984), 377.

mental injury',[101] and Hailey repeatedly expressed doubts in his private correspondence about the feasibility of introducing a penal law for the sole purpose of protecting religious feelings.

Nonetheless, he perhaps sensed the political backlash that could arise from this situation for the benefit of the government. Shortly after the meeting, Hailey issued several statements in which he distanced the government from the judicial decision in the *Rangila Rasul* case. He expressed his desire for more robust legal and executive measures to prevent such instances from taking place in the future.[102] It was Hailey who brought up a pending court case of the *Risala Vartman*, an Arya Samaj biweekly paper, as the crucial indicator of whether the judiciary was able to find a more 'accurate interpretation of the law'. To arrive at a permanent solution regarding these legal issues, Hailey, following the advice of Sir Fazl-i-Husain, a member of the Punjab Executive Council, suggested that the legislature should introduce a new bill that would clearly state that such acts could not go unpunished.[103]

Hailey hastily summoned two senior high court judges from their vacation to compose a special bench to 'hear arguments on another hostile essay on Mohammed'.[104] The implicit political message was clear: Muslim feeling had been wounded and could only be healed if another ruling of a bench immediately revoked Singh's decision in the *Rangila Rasul* case.[105] Liberal press outlets immediately reprimanded the executive's intervention into the judiciary.[106]

In these court proceedings the accused, Gian Chand, an Arya Samaj missionary and publisher of the *Risala Vartman*, denied having read the perilous article, *Journey to Hell* that was published in his magazine on 3 June 1927. In this article, the Prophet is depicted as being in Hell undergoing 'extreme torture'.[107] Like Rajpal, Chand claimed that his intention

[101] Jeremy Bentham, *An Introduction to the Principles of Morals and Legislation* (London: Oxford University Press, 1907), 246.

[102] ' "Rangila Rasul" Case: High Court Judgment Questioned', *The Tribune*, 14 June 1927.

[103] Sir Fazl-i-Husain to Sir Malcom Hailey, 23 June 1927, in Ahamd, *Letters of Mian Fazl-I-Husain*, 30f.

[104] Barrier, *Banned: Controversial Literature and Political Control in British India 1907–1947*, 100; ' "Vartman" Case in High Court', *The Tribune*, 17 July 1927.

[105] Cell, *Hailey: A Study in British Imperialism*, 1872–1969, 145.

[106] 'Has Government Been Impartial? The "Vartman" Case', *The Tribune*, 2 August 1927.

[107] 'Muqadimah Risala Vartman Ke Intiqaal Ki Darkhast High Court Mein', *Milap*, 16 July 1927; 'Judgement in "Vartman" Case', *The Tribune*, 7 August 1927.

with the publication was solely to point out the wrong beliefs that some of his Muslim brothers might hold, and by doing so to conduct 'proper and legitimate missionary work'. 'To convert a man', he expressed during the trial, 'from one religion to another' it was 'inevitable' to point out some 'bad points' in his current belief system that would necessarily result in the creation of 'a certain amount of ill-feeling'.[108] The more significant part of the judicial proceedings was spent ascertaining the extent to which Muslim feelings had been hurt. Muslim witnesses were asked to express how they *felt* when they first heard about or read the article. These statements reveal the ways in which the language of the law came to inform the articulation of feelings in the legal sphere.

Maulvi Sanaullah, an important figure of the *Ahl-i-Hadis* movement from Amritsar, stated that, after reading the article, 'he was more deeply wounded and felt more deeply enraged than ever before in his life'. The honorary magistrate of Amritsar, Hissam Din, on hearing about the article 'saw red' and 'felt hatred against the Hindu community as a whole'.[109] On these grounds, Justice Broadway and Skemp convicted Chand and the author, Devi Sharan Sharma, under Section 153A of the Indian Penal Code, sentencing Sharma to 'rigorous imprisonment for one year and payment of a fine of Rs. 500 (…) and Gyan Chand Pathak to rigorous imprisonment for 6 months and payment of a fine of Rs. 250'.[110] In the given historical context the potential modification of the law naturally enabled the colonial state to assume a role as a neutral arbiter to mediate and thereby control the 'supposedly endemic and inevitable religious conflicts between what was assumed were its religiously and emotionally excitable subjects'.[111] The supposed inability of Muslims and Hindus to overcome 'communal bitterness' was used by the colonial state to rethink 'the road mapped out' for a further Indianization of the services, as, in this scenario, the only 'impartial judge' could be found among 'English officers'.[112] Consequentially, cases that involved the injury of religious sentiments were given to European magistrates, if possible, and were

[108] 'Judgment in "Vartman" Case: Both Accused Convicted', *The Tribune*, 9 August 1927.
[109] 'Responsibility of the Community: The "Vartman' Case"', *The Tribune*, 17 July 1927.
[110] 'Judgment in "Vartman" Case: Both Accused Convicted'.
[111] Raminder Kaur and William Mazzarella, eds., *Censorship in South Asia: Cultural Regulations from Sedition to Seduction* (Bloomington: Indiana University Press, 2009), 173.
[112] Isaac Reading to King George, 3 September 1925, in Prabha Chopra and Padmesha Jha, eds., *Secret Papers From British Royal Archives* (New Delhi: Konark Publishers, 1998), 252.

used as a tool to reaffirm the supposed necessity for the British to act as mediators.[113] It is in this that the banning of literature has been identified as one of the multiple ways in which the colonial state structurally reinforced political power.[114]

Rajpal had been placed under police protection after his controversial release and had returned to his bookstore in Lahore. In the following I want to briefly summarize the three murder attempts that were made on his life, the last ending in fatal injury and death in 1929, focusing specifically on what arguments were presented in the legal defence. The first attempt was made on the morning of 26 September 1927 by a thirty-year-old bookbinder from Mochi Gate, Khuda Baksh, who attacked Rajpal in his shop with a clasp knife.[115] After causing 'severe but non-dangerous' injuries to Rajpal, Khuda Baksh was 'arrested on the spot' and trialled the next day by the District Magistrate, who sentenced him to seven years' rigorous imprisonment.[116] In his defence, Khuda Baksh asserted that he had entered the book store to acquire a copy of Waris Shah's *Heer Ranjha* in Gurumukhi. Rajpal had allegedly refused to hand him a copy. Baksh went on to stab Rajpal for this refusal.

Furthermore, Khuda Baksh claimed that he suffered from sporadic instances of high 'fever' and had lost control of all his senses during the stabbing incident.[117] The second assassination attempt occurred on 9 September 1927 when the anti-Rajpal sentiment was at its height. One Abdul Aziz tried to fight his way into Rajpal's bookshop, ultimately injuring three men who were guarding the premises.[118] In his defence, Abdul Aziz claimed that he had never intended to hurt anyone and had just been passing Rajpal's store when he overheard a conversation that he felt was abusive to Muslims. When Aziz inquired if they could stop the insults, one of the men allegedly took out a stick and started beating him.

[113] 'Indian Law Reports: Lahore Series Volume VII', 521.

[114] Chandrika Kaul, *Reporting the Raj: The British Press in India 1880–1922* (Manchester: Manchester University Press, 2003), 96–135.

[115] 'Mr. Rajpal Stabbed: "Rangila Rasul" Author: Alleged Attack by Mahomedan', *The Times of India*, 27 September 1927; 'Curious Plea of Accused: Ill with Fever', *The Times of India*, 27 September 1927; 'Rajpal Par Hamla', *Paigham-E-Sulha*, 28 September 1927.

[116] Viceroy Home Department to Secretary for State India, 29 September 1927, Telegram P&J 2319 1927, IOR/L/PJ/6/1941, File 1513, British Library.

[117] 'Curious Plea of Accused: Unaware of Assaulting Mr. Rajpal'.

[118] 'Rajpal Ka Katl', *Paisa Akhbar*, 11 April 1929.

Abdul Aziz asserted that he had merely tried to protect his own life and did not remember if he had hurt anyone in these self-defensive acts.[119]

Cosmic Vigilante: 'Ghazi' Ilmuddin

On 6 April 1929 an eighteen-year-old carpenter from Lahore, Ilmuddin, entered Rajpal's bookshop while the two patrolling police guards deployed for his safety were on their lunch break, and caused fatal stabbing wounds to Rajpal.[120] Ilmuddin, who later attained the titles of *ghazi* (warrior of the faith) and *shaheed* (martyr), escaped from the shop and ran in the direction of *Anarkali Bazaar*, where two shopkeepers overpowered and retained him until the police forces arrived.[121] Ilmuddin's *shalwar kameez* was soaked in blood, and he was still in possession of the murder weapon, a knife he had bought that very morning. Despite the overwhelming evidence, from the time of the capture and throughout the legal proceedings he did not concede to the crime.[122] Even though five witnesses were able to testify to the events at close proximity, and the extraction of 'testimonies' through torturous means had been a speciality of the colonial police force, Ilmuddin maintained that he had not murdered Rajpal. More to the point, Ilmuddin stated in his defence that he had just been on his way to the *Sabzi Mandi* to buy some vegetables when a mob of Hindus chased him down, abused him physically and eventually handed him over to the police.[123]

To pay for Ilmuddin's defence, donations were collected in various mosques of Lahore to hire Muhammad Ali Jinnah, for the very high fee of 10,000 rupees.[124] The committee responsible for handling these collections was composed of a broad sectarian spectrum of Lahori Muslims and included, among others, Muhammad Iqbal. As an elected member of

[119] 'Chand Afsoosnag Waqiyat'.

[120] Viceroy Home Department to Secretary of State for India, Reprinted Telegram from Government of Punjab, 6.4.1929, P&J 1113/1929, IOR/L/PJ/1977, British Library.

[121] 'Rajpal Murder Trial', *The Times of India*, 15 May 1929; Zarina Salamat, 'Ghazi Ilmuddin', *JOUR, Journal of the Pakistan Historical Society* 42, no. 4 (1 October 1994): 419.

[122] The entire legal proceedings have been reprinted in the otherwise hagiographical work: Zafar Iqbal Nagina, *Ghazi Ilmuddin Shaheed* (Lahore: Jang Publisher, 1988).

[123] Ibid., 118.

[124] Mohammad Isaak Bhatti, *Mian Abdul Aziz Malwada* (Lahore: Nashriat, 2006), 210.

the Punjab Legislative Council from the constituency of Lahore City,[125] Iqbal saw the self-realization of his philosophy in the acts of Ilmuddin. He immortalized Ilmuddin in several eulogizing couplets, manifesting that 'the carpenter's boy' had performed something that all the learned men were unable to accomplish.[126]

Notwithstanding the sympathy and support from the highest echelons of the Muslim intelligentsia, Ilmuddin was sentenced to death for murder and was 'executed and buried' in the Mianwali Jail on 31 October 1929.[127] These arrangements had been made in great haste and out of fear that the procession around the funeral might instigate further rioting.[128] However, a delegation of leading 'Muhammadans', including Iqbal and Sir Muhammad Shafi, convinced the Governor that there was an 'earnest' and legitimate desire to bury Ilmuddin's body in Lahore itself. Eventually, on 13 November 1929 Ilmuddin's body was dispatched to Lahore and buried with a huge crowd present, mainly as a result of the 'leading Muhammadans' vouching for public tranquillity and the government policing the roads both from and to the funeral processions.[129]

It has been argued that the funeral proceedings should be viewed as an anti-colonial moment in which Hindus and Muslims found 'common ground' to position themselves against the colonial state structure in their right to grieve and mourn.[130] However, these proceedings were heavily communally charged. While, of course, many 'Muslims' felt appalled by Ilmuddin's homicide, it would be an overstatement to assume that this manifested itself in the controlled and regulated processions and translated to, 'delicate ties of understanding' or even 'communal harmony'.[131] Similarly, Jinnah's final plea to reduce the sentence for Ilmuddin on the basis of his immaturity and acting in defence of the Prophet seems to constitute not so much a request for 'mercy' that has been read into it, but a strong plea for symbolic recognition of Muslim vulnerability.[132] In

[125] Kripal C. Yadav, *Elections in Punjab 1920–1947* (New Delhi: Manohar, 1987), 62.
[126] Javed Iqbal, *Zinda Rood II* (Lahore: Iqbal Academy Pakistan, 1984), 39.
[127] Government of India Home Department to Under Secretary of State for India, 21.11.1929, P&J 5831/1929, IOR/L/PJ/1977, British Library, London.
[128] Ibid.
[129] Ibid.
[130] Stephens, 'The Politics of Muslim Rage: Secular Law and Religious Sentiment in Late Colonial India', 15–16.
[131] Ibid., 16.
[132] *Ilam Din v. Emperor* in *The All India Reporter: Lahore Section* (Nagpur: The All India Reporter Ltd., 1930), 158.

a sense, the refusal to acknowledge and claim these homicidal intentions seems somewhat paradoxical, as the attempted killings themselves were ideologically motivated and, justified by sections of the Muslim press,[133] even though their publications could bring about harsh punishments under the 1910 Press Act.[134] More than any other measure to 'eradicate' 'seditious potential' in the writings of Indian newspapers, the 1910 Press Act directly targeted the immovable printing presses that the government felt were promoting 'inculcate hostility' towards British rule through 'veiled incitements' and burdened them with high-security payments.[135]

This refusal to acknowledge any causal responsibility in a narrow legal sense, which we can observe in various speech acts during these trials, is particularly intriguing. Instead of turning the courtroom into a 'revolutionary stage' and exploiting it to showcase, for instance, the affection that the assassin had for the Prophet, the defence systematically disavowed any legal responsibility for these acts altogether. In this sense, the ideological performances that one would almost expect in this continuation of combative encounters with legal means were utterly absent. This could be read, of course, as a mere strategy to avoid harsh punishments; however, and more importantly, the circumstances of the individual cases do not support this instrumental reasoning. Rather, it seems that the reliance on legal rationality to its extreme in the different defences allowed the legitimacy of the court to be questioned altogether.

It becomes apparent that the language of the law is seen to be lacking any ability to establish truth by these historical actors. Any legal reconstruction and assessment of these events can therefore be interpreted as insignificant to the ethical self-fashioning of the subject. Instead, ethics came to be understood as commanding confrontation and indeed, violence, which allowed for the possibility of entering the process of constituting a just society outside the framework of colonially induced governmentality. In so doing, the sphere of the law itself was rendered, to some extent, irrelevant. In this sense, acts were seen as a duty and

[133] An exhaustive overview of the reactions of the Muslim press can be found in: 'Katle Rajpal Aur Muslim Akhbarat Ki Raye', *Paisa Akhbar*, 18 April 1929.

[134] Thursby, *Hindu-Muslim Relations in British India: A Study of Controversy, Conflict, and Communal Movements in Northern India 1923–1928*, 27; Barrier, *Banned: Controversial Literature and Political Control in British India 1907–1947*, 45–51.

[135] G. K. Roy, *Law Relating to Press and Sedition* (Simla: The Station Press, 1915), 45.

committed in an almost disinterested or rather impassionate way, functioning to overcome a pathological metaphysical injustice that was at the core of the colonial experience.

The chronology of events seems to contradict the assessment of Deepak Mehta, who identified such processes as the spilling over of a mythical discourse into that of the 'rational' legal sphere. Instead, it seems that, in the context of the unfolding of the *Rangila Rasul*, the law itself was perceived by some Muslims as a sphere in which to negotiate the politics of interests, while political action seemed to be increasingly grounded in the language of sacrifice. It is instructive to inspect some justification narratives of these assassination attempts that could be observed in the Muslim press at the time. The *Paigham-e-Sulha*, for instance, published a lengthy article in which the argument, identified Rajpal's *karma* as the root cause of his assassination attempt and consequential death.[136] A similar statement, although about the assassination of Swami Shraddhanand, had been earlier published by *The Light*, in which Abdur Rehman, the assassin, was portrayed as the harbinger of a *cosmological* or *karmic* justice that confronted and ended the lifeworld of the Swami, for which, importantly, the Swami could only 'thank himself'.[137] The punishable guilt was not grasped adequately, these opinions held, in the language of the law, as it did not correctly account for the 'moral transgression' that had taken place. In this sense, the root of these assassination attempts lay neither in Islam, nor in the 'assassin's bullet', another article read, but in the 'venomous tongue of the Samajist preacher' alone.[138] Muslim papers repeatedly came to link Rajpal's murder with moral excess, a transgression committed according to his ethical belief system, that could thus not be blamed on either 'the teachings of Islam' or the murderer but was solely a product of the 'opprobrious' and 'scurrilous' writings of the Arya Samaj.[139] In this way, these debates reveal a moral colouring that was embedded in a moral unity. It is therefore not surprising that one of Rajpal's assassins mentioned *Heer Ranjah*, a famous Punjabi folk song and moral tale, as the reason that led him to enter the bookshop in the first place.

[136] 'Kya Hona Chahiye', *Paigham-E-Sulha*, 29 September 1927.
[137] 'High Court Logic: Premium on Obscenity'.
[138] 'Revolver or Tongue', *The Light*, 16 February 1927.
[139] 'The Murder and After', *The Light*, 11 April 1929.

A cursory analysis of these moral discourses in the Punjab could lead to Ayesha Jalal's conclusion that they suffered from a 'relative intellectual deprivation', which in turn came to be transformed into 'heaping insults on members of other communities', and further resulted in a 'lack of radical politics'. A nuanced understanding, however, demands an inspection of the meaning and ambitions displayed in these attacks.[140] This chapter suggests that it was through an engagement in these discourses, irrespective of their 'ugly' form of expression that a moral unity among colonial subjects strengthened rather than dissolved. These conversations constituted what C. A. Bayly has called a sort of 'Punjabi Enlightenment'.[141]

Legislating the Sacred

In the wake of the Morley-Minto reforms of 1909, a fundamental transformation of the system of political representation in India took place. The emphasis shifted towards a politics of enumeration of religious singularities. The nature of this representation was, however, not conceived of in numbers alone, with, for instance, Muslim representation in separate electorates, but additionally accounted for the 'historical importance' of Muslim rule and as a 'pedagogical' devise to strengthen Muslims as a 'political power'.[142]

The outspoken support of the Governor of the Punjab, the suggestion of Justice Singh himself, and the demands of sections of the Muslim press argued that the legislation ought to be altered. Muslim sentiments had been labelled articulations of 'madness' which had to be appeased. The cure was to resort back to 'sanity', which could only be found in potent and strict legislation that would monitor, discipline, and regulate the extent of acceptable speech. The repeated framing of a 'possessed' Muslim public, transcending legal boundaries to demand justice, was at once utilized by Muslim representatives to justify the political order created by

[140] Ayesha Jalal, *Self and Sovereignty: Individual and Community in South Asian Islam Since 1850* (London & New York: Routledge, 2000), 164.

[141] C. A. Bayly, *Recovering Liberties: Indian Thought in the Age of Liberalism and Empire* (Cambridge: Cambridge University Press, 2012), 255.

[142] Summary of the Administration of The Earl of Minto, Viceroy and Governor General of India in the Home Department: November 1905 to November 1920, *The Indian Papers of the 4th Earl of Minto*, MS 1206 Summaries of Events, 1905–1910, National Library of Scotland.

the colonial government and their place in it. If havoc had to follow the verdict, it was only preventive legislation that could balance, appease, and extract the madness from His Majesty's Mohammedan subjects.

On 5 September 1927, the bill was introduced into the legislative assembly as the 'Criminal Law Amendment Act of 1927', which systematically avoided any reference to the term blasphemy. However, blasphemy was indeed at the core of this legislation. A committee, led by Mohammad Ali Jinnah, was appointed with the directive of reporting back to the assembly with a draft of the bill on 14 September 1927.[143] Muhammad Ali Jinnah asserted that there could be 'no difference of opinion on the fundamental principle'. For Jinnah, the 'vilification or wanton attack upon any religion', which is 'likely to outrage the religious feelings of any particular class' of His Majesty's subjects, had to be should be condemned.[144] Jinnah endorsed the members of the legislative assembly to 'enact a measure which will give us security against these scurrilous writers' while cautioning them that it should remain a 'fundamental' and 'very important' principle that 'those who are engaged in historical works' should be excluded from these curtailments'.[145] Jinnah emphasized the sanctioning of the form of speech as opposed to its content. This assertion can be read as an unequal treatment, as it privileged the educated elite over the 'illiterate masses', or, as they were called in the assembly, 'unscrupulous fanatics' and 'ignorant people' who could not 'read or write'.[146]

Concern over allowing blasphemous content, if expressed in the right *form* and *style,* was frequently voiced in the legislative assembly during the discussion around the introduction of the 295A I.P.C. It seems obvious, of course, that this would privilege people from wealthier socio-educational backgrounds, and punish those unable to articulate themselves in a 'sophisticated' manner. If 'vulgarity' were to be the yardstick against which acts of blasphemy were to be measured, it was a way of silencing certain classes from expressing themselves in the public sphere. Pandit Thakur Das Bhargava, the representative of the Ambala Division, went

[143] Hari Singh Gour insisted on the usage of the term 'blasphemy' to underline what was actually being legislated: 'Legislative Assembly Debates, Monday, 5th September 1927, Vol. IV-No. 56: Official Report' (Simla: Government of India Press, 1927), 3947.
[144] Ibid., 3932.
[145] Ibid., 3933.
[146] Ibid., 3954.

on to dissect the causes of communal tension in India. While acknowledging a more permanent historical animosity between 'Hindus and Muhammadans', he argued that this never translated into the breaking of 'each other's heads with so much frequency as we see now'.[147] The real reason, Bhargava held, was not a sudden 'ultra-religious' shift in the years leading up to the *Rangila Rasul,* but stemmed from the inauguration of 'separate electorates'. British constitutional reforms, Bhargava argued, had suddenly turned Hindus and Muslims into political competitors and it had become 'impossible' for them to think of 'anything else'. More restrictive legislation would therefore not solve the problem, but, he predicted, the 'virus of disease will prove more poisonous than the disease itself'.[148]

T. A. K. Shervani, the representative of the United Provinces, reluctantly agreed with the introduction of the bill, but pointed out that he 'felt utter humiliation in seeking protection' for the Prophet through a Legislature 'which cannot protect itself'.[149] The issue that would arise from introducing the bill, however, would not be limited to Hindus and Muslims, but much more question the very definition of what it meant to be Muslim in the first place. Muslims were not a fixed category but were fractured into 'Sunnis (. . .) Shiahs and Ahmadis'.[150] Most members of the legislative assembly, however, outspokenly supported the course taken by the government as either a device to 'educate the masses' or to 'protect' religious sentiments according to a liberal language of property.[151] The motion was eventually adopted, with 61 votes in favour of the introduction and 26, exclusively Hindus, against it.[152] The first book that was put on trial after the implementation of this law was, unsurprisingly, a reprint of the *Rangila Rasul* that had allegedly been 'widely circulated' in Bengal and the United Provinces.[153]

[147] Ibid., 3952.
[148] Ibid., 3966.
[149] Ibid.
[150] Ibid.
[151] Raja Ghaznafar Ali Khan and Srinivasa Iyenagar's views are somewhat representative of the majority of the members: *Legislative Assembly Debates, Friday, 16th September 1927, Vol. IV-No. 63: Official Report* (Simla: Government of India Press, 1927), 4491, 4493.
[152] *Legislative Assembly Debates: Monday, 19th September 1927, Vol. IV-No. 64: Official Report* (Simla: Government of India Press, 1927), 4612.
[153] H. G. Haig, Secretary Home Department to P.C. Bamford, Deputy Director Intelligence Bureau, 15 September 1927, Home/Political/File 132/II/1927, National Archives of India.

Conclusion

This chapter has addressed how the reception of the pamphlet *Rangila Rasul* has contributed to the formation of a distinctly Muslim political subjectivity in colonial India. It has proposed that the increasing salience of print media at the beginning of the twentieth century had the effect of challenging the aesthetic–religious authority or 'aura' of the figure of the Prophet for Muslim identity. This new kind of vulnerability of the symbolic core of Muslim communities arguably introduced the category of the Muslim subject into the sphere of colonial law and set the stage for its centrality in the emerging antagonistic discourse on honour, purity, and insult that became so characteristic of the pre-partition period. This chapter suggests that the aftermath of the publication of *Rangila Rasul* in general—and the proceedings that ensued in the colonially dominated legal sphere in particular—enabled the convergence of a divine code of conduct with legislative practices.

The chapter concludes that blasphemy legislation, and the surrounding legislative and judicial debates, not only led to a solidification of the Muslim subject as a category in law and politics but also engraved the public sphere with deep fissures between Hindus and Muslims. The Prophet's entrance into the legal sphere, more than just a legal antagonism over blasphemy legislation, allowed for other issues around sacred space and territoriality, as we shall see in Chapter 3, to take centre stage. These issues connect more immediately to questions on legal representation and nationhood.

3

Shahidganj Mosque and the Burden of Time

The beginning of the twentieth century witnessed an unprecedented increase in disputes over the possession of sacred sites. From the 1929 Palestine riots over Jewish access to the Western Wall in Jerusalem to the more recent tearing down of the Babri Masjid by Hindu supremacists in Ayodhya, the importance of sacred geography has played a crucial role in the structural and intellectual transformation of legal and political processes. This chapter explores how key nationalist tropes like legal representation and territoriality—arising out of the conflicts over sacred space—foregrounded the tension of law with time. The past could now be used as a legal instrument to determine ownership and religion could serve as a meaningful vehicle for representation in the political sphere. The following is a micro-historical perspective into the broader nationalist question of territoriality and representation.

The following will trace how Lahori Muslims and Sikhs experienced, articulated, and contested the demolition of a small mosque, the Shahidganj, in the summer of 1935. The building was initially intended as a mosque, but after the conquest of Ranjit Singh it was soon converted into a gurdwara for the memory of Sikh martyrs slain on the mosque's ground. In the early-twentieth century, the mosque entered a lengthy legal battle, with, on the one hand, Muslims claiming that the mosque should be returned to them and, on the other, Sikhs asserting their rights to retain it as a gurdwara. Eventually, Sikh *jathas* tore down the mosque building in 1935, which resulted in a wide array of legal and political gestures among Indian Muslims, which this chapter seeks to work through. The tensions between their experiences and expectations, which are drawn out in this study, are of a specific nature: this chapter wants to understand and provide a preliminary sketch of how experiences of multiple

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temporal realities, chronotypes, or to use the words of the French historian François Hartog, 'regimes of historicity', impacted and shaped the political imagination concerning legally disputed sacred properties.[1] The Shahidganj dispute stands in for nationality and in this way illuminates how concerns around the nation were woven into the fabric of the law.

Commonly, scholars have examined such conflicts from two distinct but interrelated positions. Historians and political scientists, on the one hand, have provided insightful accounts into the ways in which the 'double nature' of politics unfolds in specific social and cultural settings. Such accounts vary from what Chilton and Schäffner have broken down to 'struggles for power, between those who seek to assert and maintain their power and those who seek to resist it', and other understandings of politics along the lines of 'cooperation, as the practices and institutions a society has for resolving clashes of interest over money, power, liberty and the like'.[2]

Legal scholars, on the other hand, have shed light on the lengthy court procedures that frequently accompany disputes over sacred sites: they have analysed how rights are constructed and how specific languages of rights are used, and at times abandoned, by the participants involved. While these scholarly contributions have greatly enriched our understanding of both realpolitik and the operative structure of legal regimes, they have largely ignored the ideological commitments and political thinking that inform legal action. However, it is evident that interests are relatively transient and acquire meaning only from the background of specific ideas that give meaning to them, which often lie well beyond the concrete material circumstances within which they were produced.[3]

This chapter seeks to analyse a distinctly intellectual history of the Shahidganj dispute, mainly how conceptions of time and history interacted with legal notions of property rights over sacred spaces. It also seeks to elucidate how this 'temporal turn' can help us to unsettle some of the conventional beliefs we have inherited on political action. Instead of narrating conflicts over sacred sites in spatial, territorial, or legal terms,

[1] François Hartog, *Regimes of Historicity: Presentism and Experiences of Time* (New York: Columbia University Press, 2015).

[2] Paula A. Chilton and Christina Schäfner, *Politics as Text and Talk: Analytic Approaches to Political Discourse* (Amsterdam and Philadelphia: John Benjamins Publishing, 2002), 5.

[3] Faisal Devji, *Muslim Zion: Pakistan as a Political Idea* (London: C. Hurst & Co. Ltd., 2013), 8.

this chapter argues, they are better understood through an examination of conflicting imaginations of temporality among political actors.

The exemplary outline of the Shahidganj discourse will serve as a fruitful narrative background to conduct a somewhat topographical depiction of these temporal conceptions. For the sake of clarity, this chapter has assembled such conceptions of temporality into groups that depict certain structural similarities, or, to put it in the words of the philosopher Ludwig Wittgenstein, carry an element of family resemblance.[4] This cartographical approach, however, regardless of the many nuances it is able to capture, can quite easily be pushed to its conceptual limits. Time is discursively constructed and ultimately subjective, with each individual holding, however slightly, different conceptions of temporality that resist easy absorption into the conceptual categories that this chapter proposes. As with all subjective beliefs, temporal orders are necessarily fragmented.

The following seeks to resolve this tension between static or homogenous notions of temporality and postmodern heterogonous conceptions, through the introduction of what this chapter has termed moments of 'temporal excesses'. In these moments of excess, this chapter argues, divergent intellectual positions can come together and form productive momentary unions, before they may or may not splinter into many divergent pieces. This chapter identifies different temporal orders as inherent to the colonial legal structure and, by extension, to several Muslim and Sikh groups that were contesting for political recognition—from polite liberal petitioners to more radical activists.

The Shahidganj dispute is noteworthy for several reasons. First, it breaks with the commonly held antagonistic Hindu–Muslim binary that runs through much of modern Indian scholarship—particularly in the nationalist phase from the early-twentieth century. Second, the involvement of significant political figures in this conflict provides crucial insights into their thinking about time, sovereignty, and politics in late colonial India. Third, an attempt to understand disputed sacred sites through the experience of different temporal regimes will allow us, it is suggested, a more differentiated and nuanced analysis of such conflicts.

[4] The concept of *Familienähnlichkeit* has been developed in the context of Wittgenstein's linguistic explorations in: Ludwig Wittgenstein, *Philosophische Untersuchungen* (Malden, MA: Blackwell Publishers, 1999), 31.

Architectural sites are somewhat intuitively regarded as evoking and establishing a specific relationship with—or connection to—the past; a relationship that itself is historically contingent and changes over time.[5] However, at the turn of the century in Lahore, many of these decaying architectural sites seemed had lost most of their temporal appeal and signalling power for political imagination. From at least the eighteenth century the Badshahi mosque, the Fort, and the Shalimar Gardens were all deteriorating. This decline was not only of the material conditions of these architectural sites but also, perhaps more importantly, their psychological significance for the collective imagination of Lahore's inhabitants.[6]

As the architectural historian William Glover has observed, Lahore had developed a form of idle detachment to its architecture, an attitude it maintained well after the East India Company annexed the Punjab and brought an abrupt end to the Sikh kingdom of Ranjit Singh in 1849.[7] This is not to say that these architectural sites had become altogether redundant, although it some of them had indeed lost all meaning and significance as reminders of the past. Instead, it goes to suggest that the vacuum that the spatial geography of Lahore produced could be filled with novel temporal imaginations that were enabling and enacting conflicting futurities. In this way, the spatial geography of Lahore was hospitable for the construction of new temporal narratives. That the law was the crucial playing ground for this dispute reveals the importance of the representation of religion in politics and speaks directly to the way in which aspects of nationality relate to territoriality.

The Mood of Lahore

Lahore was a city of migrants. More than any other city in India, it experienced rapid growth in population from approximately 100,000 in 1910 to 410,000 in 1930. This growth speaks as much for its urban attraction

[5] For the hermeneutic method, see only Hans-Georg Gadamer, *Wahrheit Und Methode: Grundzüge Einer Philosophischen Hermeneutik* (Tübingen: J.C.B. Mohr (Paul Siebeck), 1990).

[6] I am following Assmann in her construction of collective memory: Aleida Assmann and Linda Shortt, *Memory and Political Change* (New York: Palgrave Macmillan, 2012), chap. 1.

[7] William J. Glover, *Making Lahore Modern: Constructing and Imagining a Colonial City* (Minneapolis: University of Minnesota Press, 2008), 1–59.

as for the brutal unsettling of rural life-worlds through several misplaced agricultural 'experiments' implemented by the colonial state.[8]

However, the migrants were by no means composed of villagers alone, although they formed the most substantial part of the incomers. With its 15 colleges, countless schools and printing presses, and as the seat of the government, Lahore attracted and produced an intelligentsia that started to populate the upcoming tea-houses, mosques, *mandirs*, and bazaars. As the historian Markus Daechsel pointed out in his study on the 'middle-class' of Lahore, these spaces became increasingly important for the political self-fashioning of otherwise highly fragmented social groups.[9] The encounters in these public spaces are captured in countless accounts that speak of its vibrant public life, which was open to intellectual exchange but also novel forms of confrontation and violence.[10]

Lahore was an open city in two distinct, yet interconnected ways. First, no city, when it is conceptualized as a spatial metaphor in which social action occurs, can ever exhaust the possibilities of interconnectedness between each individual or even all social groups that inhabit it. Cities are therefore spaces that always remain, to use the words of the geographer Doreen Massey, 'connections yet to be made' and 'juxtapositions yet to flower into interaction', while the city is never entirely constituted by these interactions.[11] With its rapid population growth, Lahore was ideally placed to establish an openness that eclipsed similar developments in Delhi, Calcutta, or Bombay.

The second way in which Lahore acquired and secured a distinct openness at the turn of the twentieth century was through the intellectual curiosity and youthfulness that sprung from its educational institutions, madrassas, and bazaars. Such conceptions of youthfulness were not necessarily linked to age in any straightforward way. Still, they found

[8] Roshan Lal Anand, *The Milk Supply of Lahore, 1930* (Lahore: Board of Economic Inquiry Punjab, 1933), 1; O. T. Faulkner, *Experiments at the Agricultural Station: Lyallpur, Punjab* (Lahore: Superintendent Government Printing, Punjab, 1921).

[9] Daechsel's account seems to be modelled on Jürgen Habermas' genealogy of a distinct 'Öffentlichkeit' in Germany and unfortunately reproduces many of Habermas' shortcomings: Markus Daechsel, *The Politics of Self-Expression: The Urdu Middle-Class Milieu in Mid-Twentieth-Century India and Pakistan* (New York: Routledge, 2006).

[10] Markus Daechsel, 'Between Suburb and World Politics: Middle-Class Identities and the Refashioning of Space in Late Imperial Lahore, C. 1920–50', in *Beyond Representation: Colonial and Postcolonial Constructions of Indian Identity* (New Delhi: Oxford University Press, 2006), 270–400.

[11] Doreen Massey, *For Space* (London: SAGE, 2008), 11.

expression in the desire to confront and overturn inherited world-views, which were passed down through socio-cultural and institutional practices. This youthfulness and the confrontation with time is perhaps best reiterated in Mohandas Gandhi's letter, published in his magazine with the telling title *Young India*, to the Lahori Congress stalwart 'Lala' Lajpat Rai on the latter's sudden arrest after his alleged involvement in a murder plot, the so-called Lahore conspiracy cases of 1922:

> In every action of Lalaji [Lajpat Rai] I see nothing but youthfulness and calm courage. I fully endorse Lalaji's tribute to the Sikhs. One sees in everything that is happening in the country the throes of a new birth. May God grant that no hasty action, no outbreak of violence impedes our unmistakable progress towards our destined goal.[12]

This birth of a revolutionary subjectivity was increasingly finding its voice through resistance and protests on the streets and bazaars of Lahore. The image of the heroic young male revolutionary, as many have pointed out, was one vehicle through which this revolutionary spirit could be expressed.[13] When reflecting on the political situation in India, and the role of the revolutionary activity within it, Lajpat Rai had the following to say:

> The numerous young men engaged in secret propaganda cannot be unaware of the practical hopelessness of immediate results. Their willingness to suffer and to die for the cause of their country, in spite of that knowledge, is symptomatic of the changed attitude of the country and is pregnant with meaning to those who have the intelligence to understand. To a man who had known India of the nineteenth century, this fact is phenomenal. India has entered on a new phase. Her sons (in thousands and hundreds of thousands) have begun to feel that it is worth to die in the cause of freedom. With 315 millions of their countrymen behind them, they can well afford to die even in millions

[12] *The Collected Works of Mahatma Gandhi: XXV (October 1922–January 1923)* (New Delhi: The Director, Publications Divisions Ministry of Information and Broadcasting Government of India, 1967), 266.

[13] Chris Moffat, 'Politics and the Meaning of Bhagat Singh 1907–2014' (University of Cambridge, PhD Unpublished, 2014), 15–18.

> if thereby they can loosen the bonds of slavery which enchain their country and countrymen.[14]

What has been called openness here has conventionally been framed as communal closed-mindedness. The historian Ayesha Jalal, for instance, has argued that this coming together of people in educational institutions, public meetings, and newspaper debates created communal sentiments that soon after 'exploded' in violent ways.[15] Lahore's openness to intellectual innovation and its readiness for political action do not fold easily into Jalal's narrative on the mere artificiality of identity constructions.

The political culture of Lahore was at once distinct from and intimate to the broader language of politics on the Indian subcontinent. It was here that neither Hindus nor Muslims could stake a claim to an immediate history of rulership, which perhaps explains their decisive turn towards the construction of a political vision that was rarely entrenched in the preservation of privilege by way of continuation. What these political languages had in common was to view their future as mouldable, where everything was possible in the imagination, and nothing was fixed. In this way, there is an overlap in the temporal concepts among many of the subjects in this study: a futurity that was grounded in the shared desire for transformation, which left, however, plenty of space for disagreement and conflict.

The period of this analysis falls between two important resolutions that were passed in Lahore, a little more than a decade apart. The Independence Resolution by the Congress in December 1929 to acquire full *swaraj*; and the so-called Pakistan Resolution of 1940, by the Muslim League, that arguably set forth the idea of establishing an autonomous state in Muslim majority provinces. Both Nehru and Jinnah recognized and tried to capture the radical political potential of Lahore for their respective political visions—from independence to separation. It is with a sense of fundamental transformation, or indeed a revolutionary spirit, that a young Congress volunteer and participant in the 1929

[14] Lala Lajpat Rai, *Reflections on the Political Situation in India* (Leipzig: Verlag von Otto Wigand, 1917), 21.

[15] Ayesha Jalal, 'Exploding Communalism: The Politics of Muslim Identity in South Asia', in *Nationalism, Democracy and Development: State and Politics in India*, ed. Sugata Bose and Ayesha Jalal (Oxford: Oxford University Press, 1998).

Independence Resolution reminisced about the event when interviewed some decades later:

> At the Lahore Congress, when Jawaharlal Nehru was President, the Resolution of Independence was passed. At 12:30 midnight on 31st December 1929 it was a grand occasion and it was celebrated very solemnly and very excitedly, because all of them felt that there was a surge of a spirit of independence throughout the whole camp [where the members of the Congress had been put up]. Jawaharlal Nehru was carried on shoulders (…) and he was taken around the camp and he was also made to sing a song celebrating the occasion of passing this Resolution.[16]

Genealogies of Historicism

The breaking up of time into multiple and diverging imaginations, as we will see in the Shahidganj dispute, came to the fore with the purging of multiple territorial claims. Once the mosque had been awarded to the community that could stake claim to linear conceptions of time and establish territorial ownership, this legal determination was counteracted with alternative temporal claims. The first group that this chapter seeks to analyse, the Shiromani Gurdwara Parbandhak Committee (SGPC), was instrumental in the destruction of the Shahidganj mosque in 1935.

The SGPC gave institutional form to the Akali Dal, the political wing of a Sikh revivalist movement, the Singh Sabha, and, with the Gurdwara Act of 1925, was endowed with the legal authority to manage most Sikh sacred spaces. As the work of the historian Anil Sethi has shown, revivalist movements were crucial in establishing and reproducing religious boundaries by, rightly or wrongly, vilifying 'the region's composite culture'.[17]

In late colonial India, the Singh Sabha was incredibly impactful in the transformation of social and political structures among Sikhs. Like

[16] Bhalchandra Dhurandar on 17 June 1969, Centre of South Asian Studies, Cambridge, Interview Number 101, 22.

[17] Anil Sethi, 'The Creation of Religious Identities in the Punjab, C. 1850–1920' (University of Cambridge, PhD Unpublished, 1998), 12.

many revivalist sects, one of the Sabha's primary aims was the return to a 'golden age' of Sikh glory. To promote this idea, the Sabha, as the Punjab historian Kenneth Jones has pointed out, attempted to come up with and sustain a definition of a specific 'Sikh identity' that was distinct from an emerging (universal) category of Hinduism, under which they feared being subsumed.[18]

In Lahore, the story of the Sabha remained intimately tied to that of the Arya Samaj, a Hindu reformist movement. Until the late-nineteenth century, the Arya–Sabha relationship was cooperative and mutually supportive. They often shared the same stage during public rallies. Increasingly, the Sabha was not content to be regarded as just an appendix to the Arya's missionary efforts. This proselytization triggered a deeply polemical confrontation between these two groups, which ranged from the discussion of abstract theological debates to concrete accusations on the grounds of moral integrity. As the work of the historian Akbar Zaidi has suggested, it seems that these antagonistic encounters brought these groups even closer together. Particularly in how, they imagined an imagined their past.[19] Together with the Ahmadis of Qadian, a Muslim revivalist sect with a messianic bent, these reformist movements created a new antagonistic public sphere in Lahore.[20]

Public debates, so-called *munazaras*, were frequently staged to establish religious superiority, through arguments and theatrical performances. However, and perhaps more importantly, these *munazaras* were quite different from the attempts of Christian missionaries, mostly Presbyterians, who had been active—though largely unsuccessful—in converting Punjabis to Evangelism.

These conversion efforts were driven by the enlightenment assumption of a universal humanity that allowed for progression towards the 'true' religious outlook in a chronologically linear way: from pagan practices to Christianity. While twentieth-century Indian religious apologists also made occasional use of such linear models of progression, they attempted

[18] Kenneth W Jones, 'Ham Hindu Nahin: Arya-Sikh Relations, 1877–1905', *JOUR, The Journal of Asian Studies* 32, no. 3 (May 1, 1973): 457–475.

[19] Akbar S. Zaidi, 'Contested Identities and the Muslim Qaum in Northern India: C. 1860–1900' (University of Cambridge, PhD Unpublished, 2008), 118–121.

[20] Bob Van der Linden, *The Moral Languages from Colonial Punjab: The Singh Sabha, Arya Samaj and Ahmadiyahs* (New Delhi: Manohar, 2008).

to puncture the apparently inevitable culmination into Christianity deliberately. This was not done by replacing Christianity with another religion or by inferring that it was now humanity's ultimate destiny. Instead, they attempted to propose new arguments that reconstructed the past. What had led to Indians being religiously fragmented, it was repeatedly asserted in these polemical encounters, was a fundamental ambiguity of belonging. A closer look, they argued, would reveal that the Sikh had always been a Muslim or the Muslim a Hindu. In this sense, it was not a progressive development towards either religion, as the missionaries promoted with Christianity, but rather an original authentic moment in which the religious other was already tainted with one's belief.

Among the most pressing issues for the Sabha was the securing of property rights over sacred spaces. While the notion of sacrifice for the individual follower had been a fundamental part of the religious understanding and practice of Sikhs, with the rise of the SGPC such ideas of sacrifice were now immediately linked to notions of property rights over sacred spaces. In the twentieth century, in other words, we can identify a movement from sacrifice towards territoriality.

Like *masjids* and *mandirs*, gurdwaras had historically been administered and controlled by priestly families with close ties to some form of sovereign power, as Nicolas Dirks' work has revealed on the nature of Indian kingship.[21] Unlike mosques and *mandirs*, however, most gurdwaras were found in one specific geographical region of the subcontinent: the Punjab. The centralization of these sacred sites into one institutional body seemed, at least at the outset, to be a viable and relatively practical demand. The centralization would, the Akali Dal held, eradicate the corrupting influence of the clergy, the *mahants*, from Sikh temples, and help to administer the inner workings of these places more 'efficiently'. Through a division of labour, the newly established SGPC took charge of the administrative aspects of gurdwaras, while the Akalis, with their bands of volunteers known as *jathas*, were 'to deliver gurdwaras to the Parbandhak Committees control'.[22]

[21] Nicholas B. Dirks, *The Hollow Crown: Ethnohistory of an Indian Kingdom* (Cambridge: Cambridge University Press, 1987).

[22] Rajit K. Mazumder, 'The Making of Punjab: Colonial Power, The Indian Army and Recruited Peasants, 1849–1929' (School of Oriental and African Studies, University of London, PhD Unpublished, 2011), 263.

In the 1920s, with the support of leading Indian politicians—Gandhi, Jawaharlal Nehru, and Jinnah, in particular—the Akalis embarked on a 'purification' campaign of gurdwaras. Through demonstrations (*morchas*) they sought to physically overthrow those *mahants* that they had identified as being excessively corrupt.[23] As a direct consequence of this purification campaign, mowed down violently by the colonial regime, 400 Sikhs had been killed and over 30,000 people imprisoned by the end of 1925.[24]

Perhaps to divide the leadership and alienate Sikhs from both Hindus and Muslims in the nationalist struggle, or to please Sikhs regarding their importance in the Indian army, the governor of the Punjab, Malcolm Hailey, lobbied extensively for legal recognition of the SGPC as the sole institution for the management of gurdwaras. Hailey reasoned that since Muslims had been granted separate electorates in the constitutional reforms, it would be fair to award some legal provisions to the Sikh religious community, too.[25]

The legal act that drafted in their favour, the Sikh Gurdwara Act of 1925, was swiftly ratified within six weeks. With this Act, the sole legal 'authority to manage and control Sikh gurdwaras' and, perhaps more significantly, to define what constituted a gurdwara in the first place, was placed in the hands of the SGPC.[26] In this way, the central committee came a large step closer to attaining control of the 241 gurdwaras. They could also determine who should or should not be considered a 'Sikh' in legal terms. It is not surprising that these legislative acts found as much opposition among Sikhs as they did among other religious groups, which felt left out of these privileges.

A group of Sikh temple keepers fought one of the first legal disputes that came up against the SGPC. They argued that these properties had been bestowed on them personally and were their property. All rental incomes derived from these sites, in addition to the *chanda* (financial contributions), should be handed over to them. With the changes implemented

[23] J. S. Grewal, *The Sikhs of the Punjab* (Cambridge: Cambridge University Press, 1990), 159.
[24] Bipan Chandra et al., *India's Struggle for Independence* (New Delhi: Penguin Books, 1989), 18.
[25] John W. Cell, *Hailey: A Study in British Imperialism, 1872–1969* (Cambridge: Cambridge University Press, 1992), 109–122.
[26] The Sikh Gurdwaras and Shrines Act of 1925 and the Supplementary Act, IOR/P&J 6/1904, File 1388, 12–15.

through the Gurdwara Act, they were, however, only left with the option of making their claims heard in front of a newly established Gurdwara tribunal, whose judges mostly comprised Akali Sikhs. Unsurprisingly, the *mahants* had little success in their judicial adventures.[27] This preferential treatment by the colonial government to recognize the SGPC as the sole representative body for Sikhs, gave Akalis unprecedented control over the community.

While these governmental measures did open up new dimensions of power for the Akalis to influence the ideological outlook of Sikhs, this position also required constant efforts to sustain and reproduce discourses of legitimization. As the work of Michel Foucault has informed us, power necessitates the production of justificatory narratives. In Foucault's words, an 'economy of discourses of truths'.[28]

For the production of such narratives the literary works of two intellectuals and early supporters of the reformist Singh Sabha movement, Gurmukh Singh and Bhai Khan Singh, are particularly noteworthy. The main issue for these two convent-school-educated scholars was how temporal imaginations about the past could be made useful for political guidance in the present. For this purpose, they set out on scholarly expeditions into the hinterlands of the Punjab. Here they wanted to unearth rare manuscripts with relevance to the Sikh faith and to assess if and how they could accommodate them into their worldview. Manuscripts that they felt were 'historically significant' almost exclusively contained biographical details about the lives of the ten Sikh gurus and some form of political imperative.

The historical method that they set forth was therefore quite distinct from Leopold von Ranke's 'secularised' notion to reconstruct 'history as it really happened' by making use of as many primary sources as possible. Gurmukh and Bhai Kahn Singh were openly selective about the documents that they felt should be in circulation and those that should remain buried. For these two scholars, concepts of 'objective clock time' could not be used to exhaustively validate the religious experiences of their holy men and sacred sites. Only in cases where such dates strengthened their

[27] Surjit Singh Gandhi, *Perspectives on Sikh Sikh Gurdwara Legislation* (New Delhi: Atlantic Publishers, 1993), 126–145.

[28] Michel Foucault, 'Two Lectures', in *Power/Knowledge: Selected Interviews and Other Writings 1972–1977*, ed. Colin Gordon (New York: Pantheon Books, 1980), 93.

theological positions was clock time regarded as an appropriate instrument in the field of public debates.

Yet, with the exposure to ideas of linearity and clock times, notions of progress and backwardness also became central in the socio-political language of Sikhs. For the Sabha, it was the issue of backwardness, in particular, that constituted the primary conceptual catalyst to push forward their agenda of reform and purification. After all, the idea of having been left behind, to use the evocative phrase of the postcolonial theorist Dipesh Chakrabarty, 'in the waiting room of history', was one of the most potent stimuli with which to confront, rightly or wrongly, rusty religious and social structures.[29]

The humiliating treatment of Indian subjects under colonial rule certainly played a critical role in the ways in which such claustrophobic conceptions of time emerged. The search for a scientifically grounded historical method to produce truth—as Chakarbarty in his study on the emergence of the historical method in India recently pointed out—was just as much a mechanism to apologetically counter the dismissive historical narratives of missionaries and colonial administrators, as it was to charge history with politics in an emerging 'agora'.[30] At the time, Oriental scholars argued that the holy scripture of the Sikhs, the Adi or Guru Granth, could not be translated into English. Oriental scholars held that it was endlessly simplistic and repetitive and could therefore not sustain the 'critical thought of modern men'.[31] A German philologist and English translator of the Adi Granth, Ernest Trumpp, argued that Sikh theological doctrines depicted great intimacy with Islamic and Hindu concepts.[32] Particularly in the Punjab, he noted, there was nothing but blurry lines of identification regarding most social and religious groups. Kahn and Gurmukh Singh attempted to revoke such conceptions.

[29] Dipesh Chakrabarty, *Provincializing Europe: Postcolonial Thought and Historical Difference* (Princeton, NJ: Princeton University Press, 2000).

[30] The former subaltern historian Chakrabarty goes further and argues that the discipline of writing history in the Rankian manner on the Indian subcontinent was born and developed in the 'agora' and moved to the academic disciplines only much later. In the following case, both 'historians' were employed at higher educational institutions; however, they were not concerned with history writing in their professional capacity: Dipesh Chakrabarty, *The Calling of History: Sir Jadunath Sarkar & His Empire of Truth* (Chicago and London: The University of Chicago Press, 2015).

[31] Grewal, *The Sikhs of the Punjab*, 89.

[32] Ernest Trumpp, *The Adi Granth: The Holy Scripture of the Sikhs* (London: WM. H. Allen & Co., 1877).

In a famous pamphlet titled *Hum Hindu Nahi* (*We are not Hindus*), published in 1931, Khan Singh argued that Sikhism was very much a separate religious group and distinct in ritual practice and doctrinal outlook from both Hinduism and Islam. Therefore, Sikhism should be recognized as a separate category in the colonial census. So far, British administrators had subsumed Sikhs as a subcategory of Hinduism.[33] Singh's books and pamphlets were written mainly in Punjabi using the Gurmukhi script. In this way, he sought to educate and appeal to a distinctly Sikh Punjabi audience.[34] Whereas most Sikh newspapers were still utilizing the widely understood Urdu script, Singh's move to use Gurmukhi as the primary carrier of his sectarian message found resonance with many Sabhaits.

The historical method that Gurmukh and Kahn Singh used in their extensive survey, the reliance and importance they gave to primary material, and the attempt to selectively reconstruct history were not far removed from the prevalent regime of temporality among colonial administrators. While arriving at different conclusions about the value of Indian religious (and political) thought, Gurmukh and Kahn Singh's attempts ostensibly fuelled the synchronization of their temporal horizon with the colonial regime of historicity. Modern epistemological forms of knowledge production, while not adopted wholesomely, impacted how temporality was understood.

In this way, a narrative about the past for Sikhs was able to carry objective truths and, despite colonial humiliation, even more so if it contained references to European scholars ranging from Max Müller to Aristotle. It is therefore hardly surprising that Kahn Singh started to contribute widely, with translations and interpretations, to the first lengthy study on Sikh history, written by Arthur Macauliffe in a six-volume edition titled *The Sikh Religion*. Indeed, Khan Singh remained opposed to both the English language and the scholarship that emerged from such Oriental works. He repeatedly noted that he regarded it as the 'major corrupting force' for young Sikhs. Nonetheless, he felt compelled to diffuse historical knowledge in its chronological guise, at least when he thought it was beneficial to his world-view. In a review of Macauliffe's work, written in the

[33] Kahn Singh, *Hum Hindu Nahi* (Amritsar: Wazir Hind Press, 1931).
[34] *Bhai Kahn Singh Ik Adhyeyan* (Amritsar: Akali Patrika Press, 1982), 15.

monthly journal *The Khalsa* in 1909, Singh attempted to reconcile this tension in the following way:

> Our scriptures, though written in our own language, have been so much neglected by our people that it will be no exaggeration if we say that ninety per cent of our coreligionist do not understand them. The community receiving English education are without any idea of the sublime truth of the Granth Sahib. From infancy upwards their minds are moulded in such a way, that it becomes almost impossible for them to talk and write in any other language than English; and we shall not be exaggerating if we say that a great many of them find it difficult even to think in their own mother tongue. This being the case, an English translation of our Scriptures will at once appeal to the ever increasing community of educated men who will be the leaders of thought from the very nature of things. (…) In the matter of religion the name of Khalsa will shine resplendently when the glorious deeds of our illustrious ancestors in the moral and religious world are made known far and wide.[35]

For Khan Singh and other leading figures of the Sabha, then, Sikh history—as both an abstract method and a concept of temporality—had to be conveyed in English, as colonial modernity had impacted the minds of the young. This 'disease', as Khan Singh went on to note, that had alienated the younger generation of the Sikh community from their traditions was now crucial and necessary to provide the cure to its 'disastrous' impact. The English language, empiricism, and the conviction that history could be mapped chronologically, according to Singh, should be adopted by Sikhs. This adoption would create a counter-narrative and produce a Sikh subjectivity that would not shy away from confronting the ongoing politics of misrecognition.[36]

[35] Max Arthur Macauliffe, *The Sikh Religion: Its Gurus, Sacred Writings and Authors, Volume 1* (Oxford: Clarendon Press, 1909), xii.

[36] I take these points from the Hegelian philosopher Charles Taylor, although he seems to presume an ideal flow of rational communication in the Habermasian sense: Charles Taylor, 'The Politics of Recognition', in *Multiculturalism: Examining the Politics of Recognition*, ed. Amy Gutmann (Princeton, NJ: Princeton University Press, 1994), 25.

It would be premature to assume that synchronization with the colonial regime of historicity occurred holistically. In their methodological outlook, Gurmukh and Khan Singh diverged substantially from the prescribed curriculum of colonial tutelage. Their project to reconstruct the past, at its core, was explicitly directed to overcoming the temporal structure of the colonial regime itself, by pitching against it an independent civilizational past that was progressive in its own right. In this way, it is comparable to what the historian C. A. Bayly has identified as a 'politicised historicism' that was prevalent among nineteenth- and early-twentieth-century Indian 'liberal thinkers', from Ram Mohan Roy to Madan Mohan Malaviya.[37]

This politicized temporality of Sikhs sought to do away with the political system in which it was functioning. In this way, the temporal imagination of the Sabha resonated deeply with the Ghadar (mutiny) party, a transnational group of militants that sought to dismantle the colonial regime through violence. This group consisted mostly of diaspora Sikhs based in San Francisco, and while it remained numerically small its ideological contribution was crucial for twentieth-century Sikh imagination. Instrumental as they were in the British framing of conceptions on terrorism, the Ghadarites, in their own way, vehemently refused to inhabit an ever-more universalizing temporal cosmology dictated by the colonial state.[38] Their resistance and construction of what could be called temporal counter-geographies found articulation in many forms: from the publishing and circulation of books to the planting of bombs.[39] The Indian revolutionary and founder of this party, Har Dayal, pointed out the importance of taking 'dharmic principles' seriously, according to which the meaning of life was to transcend an imposed and 'degrading' colonial subjectivity.[40] Because economic exploitation within the colonial structure sought its justification on the basis of ethical governance, Dayal clarified in an article written for the Lahore-based nationalist newspaper, *Punjabee*, more than other political formations colonialism required the

[37] C. A. Bayly, 'The Ends of Liberalism and the Political Thought of Nehru's India', *Modern Intellectual History*, 2015, 69.

[38] Shruti Kapila, 'Self, Spencer and Swaraj: Nationalist Thought and Critiques of Liberalism, 1890–1920', *Modern Intellectual History* 4, no. 1 (8 March 2007): 109.

[39] G. K. Roy, *Law Relating to Press and Sedition* (Simla: The Station Press, 1915), 74; Rai, *Reflections on the Political Situation in India*, 27.

[40] Har Dayal, *Our Educational Problem* (Madras: Tagore & Co., 1922), 7.

ethical approval of those it sought to exploit. To achieve this aim, Indians were 'educated', or rather seduced, to affirm the ethical superiority and moral righteousness of colonial rule. Their role was, therefore, Har Dayal insisted, as much ethical as it was functional in a utilitarian sense.[41] In other words, the involvement of natives within the colonial structure—after all, most bureaucrats, teachers, and politicians were Indian—had created a subjectivity that rendered impossible the departure from the temporal prison of perpetual tutelage. Furthermore, it was the colonial assertion to govern ethically, and the partial acceptance of this claim by Indians, that had hindered the appropriation of the present through political action in any meaningful way.[42]

To break free from this spell, Har Dayal advised in his notes on the Indian educational system a collective effort in the study of history. This history also lay outside the commonly expected tropes of narratives celebrating a golden past to provide a hospitable temporal space for the dispossessed:

> Nothing is more instructive than history. History teaches us certain laws of general application which have governed and regulated those relations. It should be our aim to discover these truths, which are as precious as any spiritual resources embedded in holy lore and to profit by them in our present condition. What the Upanishads are to the individual soul, History is to the collective organization called Nation—it is the means of self-realization and emancipation.[43]

Such forms of realizing a singular spirit that the nation could offer, if it went down the route of thoroughly studying the past, Har Dayal went on to explain, were not linear, and thus successively building up to a higher temporal stage, but cyclical:

> History repeats itself. The foreign government always tries to give the aristocracy of the conquered country some share in the administration of the new State in order to make them and others forget the old times,

[41] Ibid., 24.
[42] Ibid., 42.
[43] Ibid., 61.

> which they had seen. This policy of conciliation is eminently suited to serve the interests of the rulers, for conciliation and consolidation go hand in hand. Large empires are generally based on the passive acquiescence of the common people, combined with the active and interested support of the influential classes among the conquered races. How to secure the latter requisite of strength and security is the great problem that confronts every Empire builder. So it was with Rome. So it was with Akbar. So it was with the conquerors of India in the early days of the 19th. Century. History repeats itself.[44]

In contrast to colonial linearity, these dharmic principles, for Har Dayal, illustrated a separate temporal counter-geography, in which conceptions of the past, present, and future were not neatly linked through historicist envisionings of time that could only give rise to notions of backwardness and progress.

In sum, this suggests that Sikh conceptions of historical time at the beginning of the twentieth century were in a state of intellectual transformation. There is very little that is 'peculiar' about them, as the recent work of Anne Murphy has suggested.[45] Rather, notions of time and history were viewed as catalysts for political change that could serve as spaces to alter and counterbalance the weight of modernity—which, to a large extent, had been distributed unevenly under colonial rule. Indeed, arguments certainly existed that embraced notions of historicist time more wholesomely. The iconic Lahori nationalist leader and Congress politician, 'Lala' Lajpat Rai, arguably the first to connect the Arya Samaj mission for spiritual emancipation to a concrete demand for national sovereignty, refers to the past in the following way:

> The solution of the social problem in India therefore does not necessarily lie in the wholesale imitation of the West to the entire neglect of its past, with its glorious heredity of laws and principles which might shine even more with greater splendor if studied in the light of modern

[44] Ibid., 68.

[45] Murphy is largely concerned with the eighteenth century, but makes the case that Sikhs in the decades leading up to independence, maintained a doubling of time: the past was gone, but yet alive, as the Gurus continued to 'live through their community': Anne Murphy, 'History in the Sikh Past', *History and Theory* 46, no. 3 (2007): 345–365.

> history. (…) The best and safest social reformer will be he who can read the ancient system of the Hindus in the light of modern knowledge thrown upon it and who out of this joint study can recommend the line of action which he considers to be likely to lead to true social progress (felicity). I may at once say that I do not believe in the possibility of a wholesale bringing back or revival of the past such as perhaps some of the Theosophists and also some of the Arya Samajists contemplate. Such a thing is impossible and it will be a waste of energy to try and achieve what is impossible.[46]

For Lajpat Rai, the lessons from a 'glorious past' require consistent interpretation to be brought into accordance with scientific forms of knowledge acquisition as a necessary step to measure progress along historicist lines continuously. Yet, it was not a re-enactment of the past, Rai reasoned, that could bring about a solution to the, rightly or wrongly, established backwardness of Indian people. Instead, it was an ability to comprehend and recognize the 'eternal spirit that had once revealed itself in religion' and to which a relationship now had to be reworked in the present in order to wrestle with the inhumane structural transformations in all fields of social and political life. Religiously informed conceptions of historicity, in the writings of Rai reflect, secular conceptions of time, which come close to C. A. Bayly's notion of 'politicised historicism'.[47] These examples have established that there were multiple ways of looking at time, history, and the past.

In the historiography on nationalism, the ways in which the nation comes to establish a relationship with time and the past have been extensively debated. Following Benedict Anderson, some have argued that it was homogenous empty time (the time of secular modernity) that gave rise to a series of collective political formations in the twentieth century.[48] On the other hand, Partha Chatterjee has argued that such a homogenous empty time did not emerge in non-Western formations of postcolonial nationalism. On the contrary, a closer look would reveal, he

[46] Vijaya Chandra Joshi, ed., *Lala Lajpat Rai: Writings and Speeches*, vol. 2 (New Delhi: University Publishers, 1966), 162.

[47] Bayly, 'The Ends of Liberalism and the Political Thought of Nehru's India', 69.

[48] Benedict Anderson, *Imagined Communities: Reflections on the Origin and Spread of Nationalism* (New York: Verso, 2006).

contends, that conceptions of time are splintered and therefore exist only in fragments.[49]

In the writings of Anderson, the emergence of 'secular time' is conceived of as a constituent element of a collective political consciousness in a deterministic way. Technological transformations, like the spread of printed newspapers, Anderson argued, would open up new grounds for social and political event spaces that could serve as binding factors between people who, without this glue, had never connected in any meaningful way. In the writing of Anderson, time itself—the past it narrated, the future it promised, and the present it gives meaning to—is technologically produced rather than constructed in social and political discourses.

The conceptual paradigm in which Anderson operates to reach his analytical conclusion is primarily based on Walter Benjamin's anthropological observations of the young, salaried employees that were living in Berlin during the years of the Weimar Republic and therefore historically specific to the emergence of German nationalism. Partha Chatterjee is more sensitive towards such historical specificities and, in his work *Nationalist Thought and the Colonial World,* sets out to revise the conceptual shortcomings inherent in Anderson's account. Chatterjee is interested in identifying the apparent 'sociological determinism and functionalism' in the historiography of Third World nationalism.[50] He emphasizes instead that colonialism and the body of (Western) knowledge that underpinned it was selectively incorporated, fought over, and dismissed by Indian public men, as we have just seen in the cases of Har Dayal, Lajpat Rai, and Gurmukh Singh. Time was by no means homogenous. It was utterly fragmented, so much so that every individual carried his or her own conception of temporality. In this sense, such disjointed chronotypes, as they are presented in Chatterjee's account, are heterogeneous, ambiguous, and continuously in the process of disintegrating and dismembering. Significantly, they could not be homogenously imagined by any large group of people. To put it simply, 'politics', ideas, and

[49] Partha Chatterjee, 'The Nation in Heterogeneous Time', *Futures* 37, no. 9 SPEC. ISS. (2005): 925–942.

[50] Partha Chatterjee, *Nationalist Thought and the Colonial World: A Derivative Discourse* (London: Zed Books, 1993), 40.

temporal imaginations can, according to Chatterjee, never 'mean the same thing' to two people.[51]

While Chatterjee's point about breaking away from Anderson's material determinism is convincing, it is difficult to follow him in his conclusion that collective political action can occur only as a by-product of somewhat confused participants pulling in different directions. Indeed, it is certainly possible that all political events are composed of individuals that may all possess entirely different motives, visions, expectations, experiences, and indeed conceptions of temporalities. In turn, however, this does not mean that there was no underlying ideological structure binding these individuals together. It seems that even if one were to collect and analyse all the different accounts that went into the construction of the historic moment—or to use Alan Badiou's concept of the 'event'—it would not explain the event holistically. For Badiou, the essential aspects of political events are hidden in the excess, the spillover, and the ideological underpinning that evade and simultaneously produce collective political action.[52]

Situating the Mosque in Time

At the height of the Shahidganj dispute, a multitude of credible narratives on the origin of the mosque had been in circulation. While there was some agreement that the mosque building was constructed sometime in the seventeenth or early-eighteenth century, most likely under Mughal patronage, its purpose and ritual usage were widely disputed. There were attempts to place the building in a specific chronological structure of the past. The colonial courts attempted to determine the year of its construction conclusively. However, while the courts repeatedly came up with

[51] Chatterjee, 'The Nation in Heterogeneous Time', 402.

[52] This is not just a rhetorical trick. Badiou takes his cues from Lacan's interpretation of Alexandre Kojève's infamous Hegel lectures. Essentially, Badiou seeks to bring the fleeting Lacanian 'real' back into the historical process and make it relevant for collective political action. If nothing else, it pushes historians to think harder about the ideological make-up of historical events: Alain Badiou, *The Rebirth of History: Times of Riots and Uprisings* (London: Verso, 2012), 63–65; Alexandre Kojève, *Introduction to the Reading of Hegel: Lectures on the Phenomenology of Spirit*, ed. Allan Bloom, Raymond Queneau, and James H. Nichols (Ithaca, NY: Cornell University Press, 1980); Jacques Lacan, *Écrits* (New York: W.W. Norton & Company Inc., 2006).

new dates, the many claimants that were involved in the lengthy cases for legal custody of the building maintained their own birth narratives.

Some years before the Great Uprising of 1857, a petitioner claimed in front of the District Magistrate that the Shahidganj property should be returned to him, as it had been entrusted to his ancestors by one Mirza Qurban Beg. After that, it had remained in his family possession until the Sikh *misl* occupied it with force. For the famous Lahori politician Fazl-i-Husain, for a long time the only Muslim member of the Viceroy's Executive Council, the concrete date of the establishment was 'immaterial'. However, it 'must have happened at some point'. What was important for Fazl-i-Husain, however, was to point out that under Sikh rule, Muslims had continued to conduct their ritual prayers in the mosque. Rather than Sikhs forcing Muslims to leave the building, Fazl-i-Husain suggested, one of the many Muslim 'trustees' must have 'abused the endowment' and abandoned the mosque, 'having converted the *waqf* property attached to the mosque to his own personal illegal use'.[53]

It was 'well known in the city', another petitioner argued, that it had been 'built by Mir Manu Khan Subedar of Lahore'.[54] In yet another court case, Syed Mohsin Shah, a former High Court Judge and member of the Anjuman-e-Islam, asserted that, while he could not say when the mosque was founded, 'it appears to be 100 years old'.[55] There was a profound non-quantitative sense of time; acknowledgement of the purposes to which the building had been devoted was important—not its actual dating on a chronological scale. One judge determined that the mosque was built in the year 1722, but this date was not confirmed in the following rulings.

The mosque could be seen as reflective of the heterogonous time, as proposed by Partha Chatterjee; however, in the moment of destruction, this temporal ambiguity is brought to an end. It seems that this disruptive instance served as a moment in which heterogonous constructions of historicity came to be synchronized among the protesters. While not becoming homogenous permanently, they nonetheless produce a

[53] Waheed Ahmad, ed., *Diary and Notes of Mian Fazl-I-Husain* (Lahore: Research Society of Pakistan: University of the Punjab, 1977), 319.

[54] Ganda Singh, *History of the Gurdwara Shahidganj, Lahore: From Its Origin to November 1935* (Lahore: Akali Patrika Press, 1935), 15.

[55] Ibid., 17.

shared moment of temporality. A temporal excess is phenomenologically experienced as a transcendental enactment, which sheds any diachronic construction of social reality in favour of an absolute experience of unfolding. It is perhaps best captured in the Bergsonian concept of durée.[56]

Unlike other geographical spaces in Lahore, the Shahidganj mosque carried multiple moral burdens. For the Sikhs, the mosque was a reminder of the injustice under Muslim rule during the Mughal Empire. The Shahidganj mosque, they claimed, had primarily served as a courtroom for what they considered a despotic order, and in this way witnessed countless executions. It was a living reminder, they held, of a brutal and destructive regime that was solely held together by physical force and inhumane theological doctrines. This moral burden that was reasserted through Sikh sacrifices would now legitimate their property rights over the territory. In the words of a Ganda Singh, a member of the Akali Dal, the 'basketful of human bones, and complete headless human skeletons' found in the 'foundations of the arches and walls' of the building—together with the narratives of suffering—gave Sikhs an ethical duty to exercise full control over this sacred space.[57] What made the space sacred for Sikhs was the blood of their martyrs that had been mixed with the soil of the Shahidganj property. They converted this blood into property rights.

It was this moral right, then, that the Sikh ruler Ranjit Singh had exercised when he built a shrine in remembrance of the principle martyr, Taru Singh, some steps away from the front entrance of the Shahidganj mosque.[58] The keepers of the shrine were given the responsibility to conduct regular ceremonial remembrance services of the sacrifice that Taru Singh had made when he stood up against the allegedly immoral practices of the Muslim rulers. Historically, little is known about the life of Taru Singh but, among the many legends and tales that are associated with him, one seems to stand out in particular. In this story, a young and handsome Taru Singh, diligently ploughing his field in the small Punjabi village of Poola, learns that the local subedar has kidnapped a woman from

[56] Henri Bergson, *The Creative Mind* (New York: The Philosophical Library, 1946), 13.
[57] Singh, *History of the Gurdwara Shahidganj, Lahore: From Its Origin to November 1935*, 15.
[58] Grewal, *The Sikhs of the Punjab*, 40.

his village. This *subedar* was acting with the permission of the Muslim governor, Zakariya Khan. In most accounts the girl is Muslim, and Taru Singh had known her well from an early age. After the abduction, the woman's family starts to bemoan the misfortune but acknowledges that there was little they could do. Taru Singh, however, sets out to the nearby *haweli* to rescue the 'woman of his tribe' and is successful in his heroic gesture to save the woman from her tormentors, who all happen to be Muslim. Taru Singh, however, gets caught and subsequently undergoes a torturous ordeal until he is killed, some weeks later, at the hands of the governor, Zakariya Khan.[59]

This story seems to strengthen a 'vernacular moral code', to use the words of Farina Mir, where honour, gender relations, kinship responsibilities, and the Punjabi language easily transcend ostensibly rigid religious boundaries.[60] Taru Singh sacrifices his life to protect the honour of a Muslim woman from his fraternity, who had otherwise fallen prey to foreign Muslim men. This implies that Muslims might have held sovereignty but could not command moral authority in the Punjab. The burden that Taru Singh's death carries for the political geography of colonial Punjabis not necessarily religious antagonism. It might well have served as a template for some form of ethnolinguistic communalism. In these stories, Taru Singh brings sanity and semblance to an otherwise fanatical and corrupt Muslim political order. The commemoration of Bhai Taru Singh at the Shahidganj mosque was thus a telling reminder of both the interlinked historical legacy of Muslim rule and the bonds of fraternal unity. This widens the observation of the Sikh historian Gurinder Singh, who noted that the 'sacrifice of life for the protection of the Sikh community translated into the emergence of spots soaked in Sikh blood as part of a shared sacred geography'.[61] Conceptions of fraternity were, however, not limited to the Sikh community' as Gurinder Singh Mann suggested, but extended well beyond such religious boundaries.

[59] Puran Singh, *Anecdotes from Sikh History* (Amritsar: The Khalsa Agency, 1908), 84.

[60] Farina Mir, *The Social Space of Language: Vernacular Culture in British Colonial Punjab* (Berkeley: University of California Press, 2010).

[61] Gurinder Singh Mann, 'Sources for the Study of Guru Gobind Singh's Life and Times', *Journal of Punjab Studies* 15, no. 1 (2008): 7.

Mosques in Courtrooms

While the Shahidganj mosque had been accommodated in the moral language of the Punjab, with the British conquest of the Sikh Empire in 1849, it acquired a distinct legal history. Legal demands were brought forward, and different claimants asked for the Shahidganj mosque to be returned. The first criminal case was registered by one Nur Ahmad in 1850 and is worth examining closely at it encompasses and predicts many of the arguments that were presented later.

Nur Ahmad asserted that the mosque had been given to his ancestors in their capacity as *mutawallis*. The Court should restore it as his personal property. To come up with the payments for the mosque, Nur Ahmad further demanded that the land adjacent to the mosque should also be returned. His case was dismissed at all appeal levels. The reason behind these dismissals was procedural. Without exploring any of the intricate circumstances of the case, the judges at various courts held that Sikhs held these properties since at least 1762. The contestation of their possession had, however, only been legally contested under British rule. The judges reasoned that since British rule was a continuation of the imperial order that had been in existence before, the laws of adverse possession had to be applied retroactively from the day of the takeover. The rules of adverse possession state that a property that has been occupied for more than twelve years is considered rightfully to belong to the person who has occupied it. Any property, sacred or otherwise, that had not been contested under Sikh rule within twelve years of its original appropriation had to be regarded as belonging to the new occupant. The possession of Sikhs would overrule 'not merely the claim of other persons to the office of *mutawalli* of this mosque, but also (. . .) the *waqf* itself and all interests thereunder'.[62]

British legal norms were read back into the past to determine the status of property rights. This process also served as legitimizing narratives for the colonial order that could now, at least legally, claim to just be a successor state in the line of many others, following the natural codes of rulership. There is an inherent de-temporal universalism of colonial law that

[62] Singh, *History of the Gurdwara Shahidganj, Lahore: From Its Origin to November 1935*, 43–57.

is easily able to transcend temporal boundaries linked to sovereignty. It also makes evident that the construction of these legal arguments is reflective of the broader colonial ideology that its rule was nothing more than a continuation of ancient imperial orders.

Nur Ahmad regarded the sacred property as his personal inheritance. He invoked the past, in its chronological guise, only as a witness to bear testimony to what was rightfully his. The occupation of the property by Sikhs was viewed as a criminal act and only later changed into a civil lawsuit while Nur Ahmad sought justice in terms of the assumption of rights through a foreign force. This desire for justice plays out in different ways. It points towards the fact that Nur Ahmad was submitting to the rule of law. At the same time, the Shahidganj disputes expose the limits and borders of the new sovereign authority. The argument of adverse possession applied retroactively into the past obfuscated the chronological guise of modernity that the colonial regime was ostensibly promoting. The Nur Ahmad case thus serves well to signal how temporality and property rights become deeply interwoven in the long nineteenth century.

In the early-twentieth century, most appeals regarding the Shahidganj mosque were directly addressed to the governor of the Punjab. Unlike Nur Ahmad's case, the arguments in these petitions were mainly based on the premise that the Divine will under which Muslims could not be dispossessed of their sacred buildings constituted an eternal law that would overrule the legal fictions used in British civil law. However, the mosque should not be returned to any one layman. Instead, the Shahidganj was seen as belonging to the 'Muslim community' as a whole, and the believers had to defend it collectively. As in Nur Ahmad's case, the court dismissed these arguments on the same legal grounds of adverse possession.[63] Whereas Sikhs moved from sacrifice to demands for territory, Muslims went the other way and used territory to enable sacrifice. The entire community had now become the plaintiff and the potential site for sacrificial violence.

Until 1925, the Shahidganj mosque had still been in possession of a Sikh *mahant*, Harnam Singh. With the Gurdwara Act, the Shahidganj mosque was brought under the immediate control of the Lahore branch of the SGPC. This transfer of rights, while welcomed by much of the Singh

[63] *The All India Reporter: Lahore Section* (Nagpur: The All India Reporter Ltd., 1938), 377.

Sabha leadership, did not go uncontested. The dispossessed *mahant* challenged its legitimacy in court. If nothing else, Harnam Singh held, 'at least the shop, mill and stable', which he had built himself, should be returned to him. With the Gurdwara Act, however, appeals in such cases had to be heard in front of a special tribunal, which consisted mostly of SGPC members, the very institutional body responsible for its administration. It is therefore not surprising that the tribunal ruled that 'any addition made to the estate' would belong to the 'shrine' alone and 'no one else'.[64]

It was advantageous for religious groups to attain legal recognition from the colonial state. The SGPC, in particular, used this position as a state-recognized regulative authority to assert itself with unprecedented force on the community it was supposed to represent.[65] As the work of Gerald Barrier has shown, this state-driven and funded institutionalization of religious communities certainly fuelled the escalation of such legal battles into more hostile, and at times violent, encounters.[66]

This shift also radiated into the legal sphere. In 1926 Muslim public men, some of which were associated with the Anjuman-e-Islam, argued more explicitly that *waqf* properties were part of their heritage and unalienable from the Muslim community. While they agreed with earlier court decisions that the property should not have been returned to any individual, they claimed instead that the property rights—derived from Divine will alone—were to be awarded to Muslims as a community.

Like the Singh Sabha, the Anjuman-e-Islam had been founded in the latter part of the nineteenth century by 'liberal' reformers.[67] Unlike the Sabha, however, its political agenda went far beyond the territorial confines of the Punjab region. In the 1930s, the Anjuman had established small branches in most Indian cities. While remaining numerically negligible, the Anjuman accomplished the production of the Shahidganj as a

[64] Singh, *History of the Gurdwara Shahidganj, Lahore: From Its Origin to November 1935*, 59.

[65] William J. Glover, 'Shiny New Buildings: Rebuilding Historic Sikh Gurdwaras in Indian Punjab', *Future Anterior: Journal of Historic Preservation, History, Theory, and Criticism* 9, no. 1 (2012): 12.

[66] N. Gerald Barrier, 'The Punjab Government and Communal Politics, 1870–1908', *The Journal of Asian Studies* 27, no. 3 (May 1968): 523.

[67] I am following C. A. Bayly in a wide usage of the umbrella term 'liberal': C. A. Bayly, *Recovering Liberties: Indian Thought in the Age of Liberalism and Empire* (Cambridge: Cambridge University Press, 2012).

pan-Indian spectacle, and in this way bolstered its credibility to represent Lahori Muslims.

The largest intellectual contribution that the Anjuman made in the Shahidganj dispute was to insist that the courts did not have the authority to decide over this matter, which concerned the religious legal concept of *waqf* property. The Anjuman thus linked the Shahdiganj case more forcefully than earlier claimants with the transcendental sovereign principles that govern law.

The legal concept of *waqf* lacks any corresponding synonym in the English language. It is often translated as a 'religious endowment', or a 'trust', but the *waqf* rarely ever folded neatly into the category of a straightforward public entity. While the Arabic root of the word *waqf* suggests that an immovable property has stopped to partake in the economic system by literally being brought to 'a hold', the donors (*waqif*) could, and regularly did, appoint their relatives to look over and derive financial benefits from these sites in their capacity as 'trusted members of the trust', or *mutawallis*.[68] The *waqf* also functioned as a legal loophole to safeguard property from the clutches of state authorities in turbulent times, as the property belonged to God and was just given in custody to the *mutwallis*. The historian Gregory Kozlowski has thus pointed out that *mutawallis* prevented *waqf* properties from becoming easily absorbed into pre-colonial state structures in India, or from turning into mere representative outposts of centralized forms of religious hierarchies. *Waqf* properties are best understood, Kozlowski concluded, as 'putting some distance between the state and crucial Islamic institutions'.[69] With the systematic implementation of the colonial legal system in the nineteenth century, the category of *waqf* was made malleable.[70] A *waqf* property was no longer limited to immovable property but could now also include perishable goods such as corporate shares, government bonds, and even cash.[71] Furthermore, in a series of decisions leading to the High Court of

[68] Ameer Ali stresses that this right could also be exercised by women, although it seems that the vast majority of *mutawallis* were indeed men: Ameer Ali Syed, *The Personal Law of the Mahommedans: According to All the Schools* (London: W.H. Allen & Co., 1880), 24.

[69] Gregory C. Kozlowski, *Muslim Endowment and Society in British India*, *Cambridge South Asian Studies; 35* (Cambridge: Cambridge University Press, 1985), 2.

[70] Muhammad Zubair Abbasi, 'Islamic Law and Social Change: An Insight into the Making of Anglo-Muhammadan Law', *Journal of Islamic Studies* 25, no. 3 (2014): 325–349.

[71] Ibid.

India and the Privy Council in the mid-nineteenth century, the concept of *waqf* was brought closer to the charitable trust, familiar to many judges from their European experience. When asked to determine the constitutive elements of a *waqf* in 1840, the Privy Council held in *Jewun Doss Sahoo v. Shah Kubber-Ood-Deen* that a *waqf* had to be devoted to 'religious and charitable uses' and that it was 'the duty of the Government to preserve its application'.[72]

Now a *waqf* could no longer benefit the donor's relatives directly but had to possess a distinctly public dimension: it had to serve 'religious and charitable' purposes only.[73] This move away from the individual and towards the community created a space to be filled with twentieth-century Muslim political aspirations. Paradoxically, these aspirations relied heavily on the underlying assumptions of what it meant to be a 'Muhammadan' of the British legal system; for instance, the idea that there was one Indian Muslim community and that this community ought to have control over the administration of *waqf* properties collectively.

In the Tagore Law Lectures of 1884 given at Calcutta University, the jurist and liberal intellectual Syed Ameer Ali was willing to depart from earlier traditional conceptions that were hospitable to regulating concerns of family welfare within the *waqf*, and widely agreed with the interpretation of the courts. The main implication of *waqf* property for Ameer Ali was that it was subject to 'the rules of divine property', since 'the appropriator's right in it' had been 'extinguished', and it had become 'a property of God' and could not be 'appropriated, sold, inherited or given by gift'.[74] The public dimension of *waqf* properties that was recognized and granted by the state provided early-twentieth-century thinkers with a space to reconstitute themselves politically within this legal space, and to challenge the legitimacy of the state to rule on matters of religious importance. As the historian David Gilmartin and others have argued, the transformation in the ownership of *waqf* properties—from the individual to the community—reflects critical shifts in how an otherwise abstract

[72] *Jewun Doss Sahoo v. Shah Kubber-Odd-Deen* in Edmund F. Moore, *Reports of Cases: Heard and Determined by The Judicial Committee and the Lords of Her Majesty's Most Honourable Privy Council* (London: Stevens and Sons, 1859), 390.

[73] Ibid.

[74] Ameer Ali Syed, *The Law Relating to Gifts, Trusts, and Testamentary Dispositions among the Mahommedans* (Calcutta: Thacker Spink and Co., 1885), 190.

and loose community could come together as a political unit.[75] Much has been made of the concept of *waqf* in the historiography on Indian nationalism. The usage of religious terms to rally for political reasons has led many to equate the two and to argue that the roots of Muslim politics lay somewhere deep in their past religious experiences.[76] By the beginning of the twentieth century, however, much of the political potential Muslims could derive from legal categories had been exhausted. Politics now had to be infused with the notion of sacrifice. Unlike the Sikhs, who moved from sacrifice to property, Indian Muslims utilized legal rights to property to produce a novel language of sacrifice.

In this spirit, the Anjamun argued that the divine dimension of the *waqf* could not be altered or modified—especially not through historically contingent liberal conceptions of justice. The principle of non-interference in religious matters, however incompletely promoted by the colonial state, the Anjuman additionally argued, could only acquire substance if these Divine principles were sufficiently accommodated. In essence, no state institution should have the authority to challenge Divine will in the *waqf* legislations.

Since the Shahidganj mosque had intentionally been built as a mosque, the Anjuman's advocate Sayyed Muhsin Shah reasoned, it was beyond any regulatory control of the state. It could neither be 'bought, sold', or passed over to non-Muslims based on adverse possession and was protected 'until the day of judgment'.[77] Yet, it was important for the court to rule that it did not possess the regulatory authority to decide in this dispute. Rather than traditional religious norms that stood in conflict with secular legal conceptions, Indian Muslims were perceptive to the various ways in which liberal conceptions of regulatory power appropriated claims to legitimize colonial rule. The Anjuman moved from the questions of property rights, which can be transferred, appropriated, and nullified, to the critical question of sovereignty. In so doing, the Anjuman posited popular notions of truth against legal instruments of appeasement, of

[75] David Gilmartin, 'The Shahidganj Mosque Incident: A Prelude to Pakistan', in *Islam, Politics, and Social Movements*, ed. Edmund Burke and Ira M. Lapidus (Berkeley, CA: University of California Press, 1988).

[76] Venkat Dhulipala, *Creating a New Medina: Sate Power, Islam, and the Quest for Pakistan in Late Colonial India* (Cambridge: Cambridge University Press, 2015).

[77] Singh, *History of the Gurdwara Shahidganj, Lahore: From Its Origin to November 1935*, 58.

which retroactively applying adverse possession constitutes an extreme example. The Gurdwara tribunal, however, was not convinced. They dismissed the Anjuman's case and concluded that there was no 'valid legal foundation', and 'no sufficient ground' on which they could base a ruling different from what had been said before. Sovereignty for the tribunal had to lie within the confines of the current legal order. For all matters legal, they held, the building had 'long ceased to serve as a sacred place', as it had been converted for private use well before 1852.[78]

Rumours soon started to emerge that a conspiracy was underway to tear down the mosque, in addition to other stories that held Muslims were about to take over the premises with force. On 5 July 1935, the Delhi-based daily *Al Jamiat* titled that Muslims were about to lose the Shahidganj mosque, as 'Sikh-Muslim relations had taken a dangerous turn ever since the radical Akali Dal fraction started gaining popularity'. The Akali Dal's paramilitary appearance and behaviour, the paper suggested, had led significantly to a 'dangerous war-like' situation on the streets of Lahore.[79] Indeed, there had been a substantial influx of young Akali Sikhs from Amritsar who wanted to protect the gurdwara from being taken over by Muslim protesters.

Other voices cautioned and provoked communal sentiments at the same time. On 8 July 1936 the *Paigham-e-Sulha*, a Lahore-based daily, noted that the conflict was on the verge of escalating similarly to the Hindu–Muslim *Rangila Rasul* agitations of 1927. Unlike the *Rangila Rasul*, however, where the agitation was based on upholding a religious principle alone, the honour of the prophet, the Shahidganj dispute had been, the editor contended, entirely engineered by the government to create a rift between the 'two brave races of the region of Punjab'. Yet, the government was wrong to assume that it was only a loose fraternal bond binding Sikhs and Muslims together. The founder of Sikhism, Baba Nanak, and at least two succeeding gurus had been Muslims and used to pray according to Islamic tradition and promote the principle of *tauhid* (supremacy of God):

[78] Ibid., 60–62.
[79] 'Lahore Ki Masjid Shahidganj', *Al Jamiat*, July 5, 1935.

> It was not only a deep love that Baba Nanak Sahib felt towards the Muslim faith. He would also regularly participate in Islamic prayers at his local mosque. His coat had inscribed in it countless verses from the Quran and his speech and thought was completely aligned with Islam.[80]

By following him, Sikhs had unknowingly been Muslims all along and in this critical hour should come forward and fight alongside Muslims in their shared struggle to further the interest of the country (*mulq*).[81] For the *Milap*, a paper with close ties to the Arya Samaj, it still remained to be proven if the building had indeed been a mosque. However, even if this had been established beyond doubt this could not translate into property rights for the 'Muhammadans'.[82] Muslims, the *Milap* was quick to remind its readers, had also arrived in India as conquerors. In the centuries of Muslim rule, many Hindu sacred sites had been converted into mosques. The former Kashi Vishwanat temple was presented as a prime example of how the reign of Aurangzeb, in particular, had made excessive use of force to destroy and convert *mandirs* into *masjids* (and Hindus into Muslims). Muslims could not have it both ways. The paper proposed that if Muslims were to return the many sacred sites, they had occupied by force to their 'Hindu brothers', then Hindus would contest on their behalf to secure the Shahidganj mosque. In the present circumstance, however, the only way for Sikhs to protect the Shahidganj gurdwara was to confront the violent 'Muslim mobs' that had thrown the city into a 'civil war'.[83] The *Milap* further insisted that the blood of the 'martyred' Sikhs on the mosque property had endowed them with much stronger moral rights to remain occupants of the mosque than just a legal ruling based on adverse possession.[84]

Responding to this allegation, an editor of *The Light* wrote a lengthy article in which he distinguished between the 'necessary force' used by the Mughal ruler Aurangzeb to root out 'political defiance' and the destruction of religious buildings merely to hurt religious sentiments. Aurangzeb

[80] 'Masjid Shahidganj Ke Mutaliq Nagawaar Halaat', *Paigham-E-Sulha*, 8 July 1935.
[81] Ibid.
[82] 'Lahore Mein Dafa 144 Nafiz Kar Di Jaye Gi', *Milap*, 3 July 1935.
[83] Ibid.
[84] Ibid.

did not, after all, the reader asserted, destroy all Hindu temples that stood in his way; otherwise, there would be very few Hindu temples left.[85] The *Milap* was not alone in creating ethical narratives of ownership exceeding the mere legal victory that Sikhs had achieved in court. In such accounts, the language of blood and soil was particularly visible. For instance, we find glimpses of these notions in the writings of the early twentieth-century Punjabi poet Puran Singh. A scientist by profession, Puran Singh's most significant contributions lay primarily in the field of literature. Already in 1908, in his book *Anecdotes from Sikh History*, Puran Singh critiqued the mechanization of the human subject sharply and 'the cult of self-preservation' to which it had given rise among many educated Indians.[86] To overcome this state of mind Singh proposed a form of liberation theology that transcended religious borders to unite Indians under the fraternal umbrella of kindness and sacrifice.[87]

Yet, according to Singh, there was no imminent need to perform such sacrifices in the present. Rather, it was necessary to catch the 'faint echo of the past' that was still trying to converse with the inhabitants of Lahore through its architectural sites.[88] Sikhs had been persecuted under Muslim rule, and the remnants of these sacrifices were now in danger of being forgotten:

> Outside of the Musti Gate of Lahore, which so many times we pass in deep delirium of our small life, was enacted the scene of that dreadful cruelty. The walls of the Lahore Fort have seen the execution of Bhai Mani Singh and the Musti Gate is still in [the] same posture. Let us go and stand with throbbing hearts within those ancient walls and try to catch some faint echo of the past.[89]

It was, Singh elaborated his position, only through martyrdom, or to be more precise the mixing of the martyrs' blood with the soil, that the 'dear and sacred relationship' between a people and a geographical space could be established. Every ideological position, 'every thought', he contended,

[85] Ghulam Muhammad, 'Islam and Non-Muslim Temples', *The Light*, 8 December 1935.
[86] Singh, *Anecdotes from Sikh History*, 3.
[87] Ibid., 37.
[88] Ibid., 73.
[89] Ibid.

required at least 'some quantity of blood for its life'. Thus, 'sacrifices' that were enacted in the past could be transformed into legitimate claims for property rights.[90]

In his account, too, the past is not just a burden to protect religious spaces through which people can find some connection. The past carries the promise of political sovereignty. In this sense, sacrifice alone cannot legitimize the exercise of authority and political power, but only sacrifices that are temporally distant but geographically close. This tension, according to Puran Singh, allowed for the reconceptualization of ethical claims to sacred geography. Yet, Puran Singh's universalism appears to be less inclusive than he made it out to be. Muslims, in particular, were excluded from participating in this collective act of remembrance. They were marked with the stigma of unjust rulership, which had produced much of the suffering. Additionally, the Muslim experience of suffering, according to Singh, was placed outside the subcontinent, in a geographically and temporally distant Arabia.[91]

The narratives of Sikh suffering under Muslim rule were by far the most visible in the vernacular newspapers. Another article in the *Milap* compared the execution of Sikhs outside the Shahidganj mosque with one of the critical episodes of the Indian Rebellion of 1857, the Bibighar massacre in Kanpur. While, initially, Nana Sahib, a minor Hindu aristocrat who led the sepoys against the East India Company in Cawnpore, had attempted to negotiate an exchange of the women and children held in the Bibighar (house of ladies) he soon gave up on the plan. The brutality with which the British forces, were killing the revolting sepoys on their advances caused Nana Sahib to seek retaliation.[92] Just as the British had turned the Bibighar into a site for remembrance, the article claimed, Sikhs were entitled to the same for Shahidganj.[93] In this narrative, too, it was not the legal ruling that legitimized Sikhs to remain in possession of the mosque. Instead, it was a calling of history in its capacity to remember hurt, injury, and the loss of kin.

[90] Ibid., 39.
[91] Ibid., 90.
[92] Gautam Chakravarty, *The Indian Mutiny and the British Imagination* (Cambridge: Cambridge University Press, 2004), 36–38.
[93] 'Gurdwara Shahidganj ki "Masjid"', *Milap*, 12 July 1935.

On 6 July 1935 the Governor of the Punjab, Herbert Emerson, left his summer retreat in the hills of Kashmir to return to Lahore with the declared purpose of mediating and solving the Shahidganj conflict.[94] Emerson met with different Sikh and Muslim delegations and, as a first step, drastically increased the police and military presence on the streets of Lahore. Among the men that Emerson met were a host of religious leaders, journalists, and public men who were, or claimed to be, important representatives of their communities.[95]

For Emerson the reason behind the dispute was instantly apparent: the Lahore press had created heated public sentiments of simple-minded native subjects in order to increase their circulation and to win political favours in the upcoming provincial elections. If the press was sufficiently curtailed, he thought, the situation would calm instantly.[96] Thus, the first measure taken by the government to intervene in the conflict was to issue a formal notice to all journalists and editors in Lahore. They were ordered to refrain from writing any article concerning the Shahidganj dispute.[97]

Some particularly outspoken journalists, like the chief editor of the *Siyasat*, Syed Habib, and Maulana Zafar Ali, were additionally made to report to the police station to be cautioned in person.[98] There was no alternative for Muslims 'but to bow to the authority of the law', as an author of the *Civil and Military Gazette of Lahore* paraphrased Emerson's intention rather crudely.[99] Emerson's approach to mediating in the conflict presents a textbook example of the ways in which censorship and force, with their asymmetrical implementation and enforcement of legal norms and the marking and degrading of colonial subjects as criminals, were crucial for the reproduction and legitimization of colonial governmentality.[100]

In the early hours of 8 July 1935, the Akalis began to tear down the mosque.[101] Emerson had received notice of these actions almost as soon as the Sikhs had started and briefly considered preventing the destruction

[94] 'Shahid Ganj "Mosque" Dispute: Muslim and Sikh Deputations Wait on Governor', *The Tribune*, 8 July 1935.
[95] Ibid.
[96] Cell, *Hailey: A Study in British Imperialism, 1872–1969*, 73.
[97] 'Shahid Ganj "Mosque" Dispute: Muslim and Sikh Deputations Wait on Governor'.
[98] Singh, *History of the Gurdwara Shahidganj, Lahore: From Its Origin to November 1935*, 76.
[99] Cell, *Hailey: A Study in British Imperialism, 1872–1969*, 178.
[100] Bernard S. Cohn, *Colonialism and Its Forms of Knowledge: The British in India* (Princeton, NJ: Princeton University Press, 1996).
[101] The Shahidganj Gurdwara, IOR/P&J4242/1935, British Library, London, 4.

under the 295 Indian Penal Code, a norm that protected places of worship from being defiled. In a telegram that was circulated the next day to all Deputy Commissioners of the Punjab, Emerson made it clear that he was only dissuaded from stepping in after lengthy consultation with the law officers of the government. They 'definitely advised' him that 'Section 295 IPC was not applicable' in the given situation.[102] The Ancient Monument Preservation Act was also briefly considered as a legal basis to intervene but ultimately dismissed by the cabinet as 'impractical in these circumstances', a civil servant remarked when the Punjab Legislative Assembly questioned him in November 1935.[103] While the demolition was going on, police stopped Muslim groups from entering the premises and imposed a *lathi*-charge.[104]

The Muslim press interpreted these acts by the government as active assistance to the demolition.[105] Despite heavy censorship, Muslim newspapers reported widely on the destruction the following day in short polemical tracts and lengthy theological essays.[106] In principle, a space once devoted to a mosque, they almost unanimously held, was unalienable from the Muslim community, regardless of its current ownership status. It was ironic, the *Al Jamiat* pointed out, that the mosque of martyrs, the literal translation of Shahidganj, had been martyred and fulfilled the promise its name carried.[107] Other papers were openly critiquing Emerson for having broken the commitment to protect the mosque.[108]

The Minority Question

The following is an outline of two points that are significant in the antagonistic reaction that followed the destruction of the mosque and legal dispute. The first was the recourse that some Muslims and Sikhs took in claiming rights without sovereignty. This inference of legal rights that lay outside the colonial structure constituted a critique of the sovereign

[102] 'The Shahidganj Dispute', *Civil and Military Gazette*, 10 July 1935.
[103] 'Shahidganj in the Legislative Assembly', *The Tribune*, 10 November 1935.
[104] 'The Shahidganj Dispute'.
[105] 'Masjid Shahidganj Ki Shahadat-', *Paigham-E-Sulha*, 11 July 1935.
[106] 'Lahore Ke Akhabaraat Par Censor Nahin Raha', *Al Jamiat*, 9 August 1935.
[107] 'Lahore Ki Masjid Shahidganj Shahid Kar Di Gayi', *Al Jamiat*, 13 July 1935.
[108] 'Masjid Shahidganj Ki Shahadat-'.

foundations of the colonial enterprise. It was also reflective of broader conceptual debates that were taking place globally on the role and status of minorities in a disintegrating international order.

After several large empires had dissolved as a direct consequence of the Great War, the existential question that emerged for its successive entity, the nation-state, was on the role and treatment of minorities.[109] While minorities enabled discourses for homogenous national sentiments, they also imminently challenged, or at least problematized, a homogenous envisioning of a nation.[110] To quote the evocative phrase of Arjun Appadurai, this 'fear of small numbers' fuelled an ideological climate that allowed for the violent expulsion, absorption, or even industrial elimination of minority groups. Minorities were increasingly perceived as a direct threat to the nation-state project.[111] One of the ways of reconciling this minority paradox, and perhaps the most common political gesture that was adopted by a wide range of nation-states, can be seen in awarding minorities rights above the 'regular' citizen-state relationship as constitutional safeguards.[112]

This beneficial move for minorities is, however, somewhat relativized when one realizes that such rights, which were nonetheless heavily fought over in the Minority Treaties, hardly ever amounted to an actual privileging of minorities in any substantial way. On the contrary, such forms of legal protection opened up the need for some transnational institution that would be both willing and able to enforce them. What complicated the minority position further was that such rights could not be awarded by the newly established post-war global alliance, the League of Nations, as the principle of national sovereignty was considered supreme in this context. Minorities were thus bound to look for some kind of affiliation with other nation-states, ideally created by a people that professed a common allegiance to the minority, be it ideological, ethnic, or cultural.[113]

[109] The Russian, German, Austria-Hungary and Ottoman Empire: Carl Schmitt, *Der Nomos Der Erde: Im Völkerrecht Des Jus Publicum Europaeum* (Berlin: Duncker & Humblot, 1974), 265.

[110] Homi Bhabha, ed., *Nation and Narration* (New York: Routledge, 2000), 4.

[111] Arjun Appadurai, *Fear of Small Numbers: An Essay on the Geography of Anger* (Durham, London: Duke University Press, 2006).

[112] Hannah Arendt, *The Origins of Totalitarianism* (Cleveland and New York: Meridian Books, 1962), 273.

[113] Ibid., 265–272.

People belonging to the German *Volk*, for instance, who resided in the Sudetenland, which after the War had become part of the Republic of Czechoslovakia, looked to Germany to secure and protect their citizenship rights under the new political order. As the political theorist Hannah Arendt personally experienced and theorized, minorities in most nation-states were marginalized and treated as an anomaly. For minorities, it seemed quite reasonable to look for support from abstract global principles of justice, or, if it were available, another nation-state that was sympathetic to their suffering.[114]

This global question didn't go unnoticed in India. The position of the Muslim and Sikh minorities in the Indian political imagination was, however, quite different from that of European minorities who had by and large been marginalized well before nationalism made it a political imperative. In contrast to the European minority experience, Indian Muslims and Sikhs could look back to a long history of rulership. Unlike Sikhs, Indian Muslims were further unevenly distributed on the subcontinent and constituted statutory majorities in the Punjab and Bengal provinces. If counted together, Indian Muslims easily outnumbered most European nation-states. For these reasons, the development of a distinct minority subjectivity among Indian Muslims remained arrested for much of the nineteenth century, which is evident from the writings of most nineteenth-century 'liberal' reformers, from Syed Ahmed Khan to Ameer Ali, as was alluded to in the Introduction.[115] Twentieth-century Muslim public men, in contrast, largely departed from these views, while at times they remained under the spell of some of their conceptual baggage.[116]

Increasingly Muslims came to identify themselves, rightly or wrongly, as a minority under threat. By the 1930s this minority consciousness had led Indian Muslims, with support from the Congress party, to embark on their first pan-Indian campaign, ostensibly to safeguard the last international institution of Muslims, the Ottoman khalif. While the declared aim of this movement, the preservation of the monarchy, was ultimately frustrated, Muslims had begun, much like minorities elsewhere, to look for

[114] Ibid., 269.
[115] Bayly, *Recovering Liberties: Indian Thought in the Age of Liberalism and Empire*, 232–35.
[116] Faridah Zaman, 'Futurity and the Political Thought of North Indian Muslims, C. 1900–1925' (University of Cambridge, PhD Unpublished, 2014).

narratives of belonging that adopted an international identity to remain Indian subjects. Paradoxically, as Faisal Devji recently pointed out, their unfulfilled desires and experiences to find belonging within a global and national sphere led to a turn inwards that was pregnant with the separatist idea of establishing a nation state of their own.[117]

We can get a glimpse of such sentiments in an article written immediately after the demolition of the mosque in the Urdu newspaper, *Al Jamiat*, where the editor explicitly addressed what he considered to be the most decisive problem for Muslims in India. The majority of the 'colonial police and army forces' that had been deployed on the ground to guard the premises around the Shahidganj mosque, the author observed, had been 'Hindu, Muslim and Sikh'.[118] As they had prevented Muslims from defending the mosque, not only had they become complicit in its destruction but, more importantly, this had shown beyond doubt what political life was going to be like for Muslims in a decolonized and sovereign India. The behaviour of the government troops, in other words, was foreshadowing the exclusionary nature of a united postcolonial India. In this new state, the article concluded, Muslims would be sidelined and eventually wiped out by the novel majoritarianism, precisely because there was no other Muslim nation-state that they could call to for help.[119]

Other newspapers followed suit. *The Light* was concerned about 'the coming reforms and autonomy' that India had begun with the constitutional changes of 1935. While these reforms would certainly give Indians more autonomy and might ultimately even lead to full sovereignty, after an appropriate period of tutelage, the author feared, such reforms would establish a Hindu majority. In the current political landscape, he continued, the only party that represented such a vision of a united India was the All India Congress Party. However, just as Congress had remained aloof of the Shahidganj, the most 'important' Muslim issue, they would, the author insisted, stay silent in an independent India whenever Muslim concerns were to be taken seriously. The article concluded with a personal attack on Gandhi, at this point the undisputed symbolic and ideological head of the party, who had been repeatedly notified about the

[117] Devji, *Muslim Zion: Pakistan as a Political Idea*, 50.

[118] 'Sikhon Ke Eek Leader Ne Qasam Khai Thi Ke Main 8 July Ko Shahidganj Ki Masjid Shahid Kar Doon Ga', *Al Jamiat*, 13 July 1935.

[119] Ibid.

Shahidganj dispute between the two 'martial races' of the Punjab. Gandhi had decided to remain quiet.[120] It is surprising that Gandhi did not mention the Shahidganj conflict or attempt to speak to the agitators on both sides directly, although he had taken note of the events surrounding the mosque, as is evident from his correspondence with Vallabhbhai Patel on 23 July 1935:

> What is going on in Lahore? Can you form any idea about it? Who is to blame?[121]

Gandhi's refusal to speak directly to the agitators on both sides might have to do with his ambition to portray India as having transcended any issues regarding communal hatred and that she was therefore ripe for governing herself. Another commentator noted that, whereas Sikhs had devoted considerable attention to developing a well-equipped paramilitary force, Muslims were lagging in formulating an appropriate military response. The author noted that with their *jathas* of young men, Sikhs had sufficiently prepared for the moment of independence, when the British would 'pack up and leave', while Muslims, on the other hand, were still waiting for some outsider to intervene on their behalf.[122] Like the article in the *Al Jamiat,* the author pessimistically foreshadowed that more 'great blows against Islam' would occur soon.[123] Unlike the *Al Jamiat,* the author felt that the 'Muslim youth' could still prevent these future events from taking place if only they were willing to 'put down their lives' for the 'noble cause' of protecting Islam.[124]

It is evident from these accounts that the Shahidganj mosque, and religion more broadly, served as a vessel for a range of notions on temporality and sovereignty. The process with which these symbols were translated into a modern language of politics, reveals a proximity and departure from the European experience. The role of minorities in the national imagination, questions surrounding property rights, and political

[120] Mirza Yaqub Beg, 'The Present Muslim-Sikh Tension', *The Light*, 16 August 1935.
[121] *The Collected Works of Mahatma Gandhi, VXVII, April–September 1935* (New Delhi: Publications Division Government of India, 1999), 275.
[122] 'The Shahidganj Affair', *The Light*, 1 August 1935.
[123] Ibid.
[124] Ibid.

representation served as pathways to discourses that were to shape the Indian democratic experience.

From the outset such views seem reflective of certain apocalyptic conceptions of time; a notion that at once is propelled to action to participate in a Darwinian struggle for survival. However, at the same time, such calls for collective political action through sacrifice are made up of multiple temporal counter-geographies. These temporal landscapes, in contrast to Benedict Anderson's reading of Benjamin, are not homogenous in any immediate way.[125] Instead, they were continuously fought over and offer us a broad spectrum of temporal visions, well beyond a mere adoption of chronotypes inherent in colonial modernity.

The second conceptual point that is worth noting in this context links to the idea, or rather the temporal metaphor, of the mosque itself. The notion of eternity for which the Shahidganj mosque was meant to stand was often connected to the apocalypse. However, there are countless cases in which mosque buildings had changed their designated purpose from congregational spaces for ritual prayer to private houses or, at times, state offices, without a similar reaction from Lahori Muslims. After all, the destruction of the Shahidganj, too, did not put an end to linear or cyclical conceptions of temporality. However, very few causes in India had emerged in such a powerful way as political symbols and catalysts for collective action like the Shahidganj. Following Carl Schmitt, this argument assumes that collective political action presupposes an element of temporal homogeneity of survival to be successfully enacted.[126] In this way, the temporal excess, the residue or leftover, that the Shahidganj mosque produced could spill over, captivate, and absorb divergent temporal conceptions into homogenous ones that carried the potential of fuelling collective political action. The new time that the mosque produced was thus ripe with political possibilities; it seems that it had unburdened Muslims from temporal restraints that usually weigh down inherited spaces of belonging.

While the sanctity of the mosque was arguably discursively constructed as a symbolic vulnerability to perform—and to some degree

[125] Anderson, *Imagined Communities: Reflections on the Origin and Spread of Nationalism*.

[126] The Darwinian struggle for survival in the thinking of Carl Schmitt is most visible in his notes on Hobbes: Carl Schmitt, *The Leviathan in the State Theory of Thomas Hobbes: Meaning and Failure of a Political Symbol* (Chicago: The University of Chicago Press, 1996), 12–16.

establish—a united Muslim political consciousness, the temporal implications it carries are intriguing. The mosque was able to bind together and catalyse diverse, fragmented notions of temporality to be acted out in a singular popular protest. In this way, Chatterjee's observations that all political action is necessarily conceptually fragmented—temporality being no exception—downplay the ways in which temporal excesses, like the destruction of the mosque, create intellectual meeting points that allow for action that is very much singular in its conceptual outlook.[127]

Muslims were now participating, in ever-growing numbers, in demonstrations throughout Lahore.[128] To soothe Muslim sentiments, Emerson and Fazl-i-Husain came to the agreement that the Anjuman-e-Islam should take custody of another mosque that had been used by the government as a colonial session court for the past decades, the Shah Chiragh mosque. This symbolic gift, the two men hoped, would both distract from, and perhaps even do away with, the agitations that had developed out of the dispute.[129] Nonetheless, or precisely for this reason, the public display of discontent continued unhindered after this colonial 'gift'.[130] On 21 July 1936, an unusually large procession of approximately ten thousand men, organized by Allama Mashraqi's brown shirts and the Anjuman-e-Islam, set out to march through the old city, where it was dispersed with gunshots by government forces. The firings left dozens dead and even more wounded.[131]

In a piece censored at the time, the chief editor of *The Light* found reconciliatory words about the destruction. The problem was not so much, he asserted, that a sacred building had been destroyed. This damage could be fixed through a new contractual arrangement. The real damage was the 'moral burden of responsibility' that Sikhs had brought upon them with the demolition. Particularly, he insisted, the Akali sect should have been more sympathetic to the ethical duties that Muslims had to perform, as their belief system instructed them to obey the very same monotheistic principles.[132]

[127] Chatterjee, 'The Nation in Heterogeneous Time'.

[128] Nripendra Nath Mitra, ed., *The Indian Annual Register: July–December 1935* (Calcutta: The Annual Register Office, 1935), 202.

[129] 'Masjid Shah Chiragh Ki Wapsi', *Al Jamiat*, 20 July 1935.

[130] 'Lahore Mein Masjid Shahidganj Ke Mutaliq Tension', *Al Jamiat*, 20 July 1935; 'Situation in Lahore Continues to Give Anxiety', *The Tribune*, 17 July 1935.

[131] 'Lahore Situation Deteriorates: New Curfew Order Issued', *The Tribune*, 21 July 1935.

[132] 'The Shahidganj Affair'.

Thus, Sikhs had acted against their scriptures, which demanded that they respect and honour these sacred spaces, a task that the short-lived Sikh empire had taken very seriously. Now, the only way to redeem some of their moral guilt, the author proposed, was to leave the Shahidganj site empty. More importantly, however, Sikhs should realize that, with increased autonomy at both state and national level, they too would come to be seen as minorities. Therefore, they should throw in their lot with Muslims and 'not waste their energies by fighting against one another', but begin to 'jointly steer the destinies of the province'.[133]

Sikh leaders were much more concerned with the affairs of the Punjab province. What plagued them was the ratification of the 1932 Government of India Act and the Communal Award. These two acts introduced some key changes in the electoral structure of India. The franchise had been widened to include approximately thirty-six million Indians. Still, they were only able to vote in so-called separate electorates, a system that took into account the religion of those who could vote and stand for specific seats.[134] Such reforms also did not open up all government positions to 'native' Indians. As Ayesha Jalal has observed, the Communal Award was just another way for the British to increase the autonomy of 'their friends and collaborators' while making sure that they were not threatened in their 'control at the top'.[135] Be this as it may, as an immediate effect for the Punjab, the introduction of the Communal Award effectively meant that Muslims were to constitute a statutory majority in the structure of the colonial state. This gave rise to concerns about the status of minority rights, or, as the editor of the *Times of India* remarked rather crudely: 'Sikhs will be crushed under the coming "Muslim Raj" '.[136] Ironically, these fears resonated deeply with Muslim anxieties that they would be marginalized under Hindu majoritarianism at a national level. As in the Muslim case, the Sikh leadership demanded that their historical importance and fiscal contribution to the revenues of the state be adequately taken into account in the distribution of government positions. The president of the SGPC,

[133] Beg, 'The Present Muslim-Sikh Tension'.

[134] *Report of the Indian Franchise Committee Volume I* (Calcutta: Government of India Central Publication Branch, 1932), 35.

[135] Ayesha Jalal, *The Sole Spokesman: Jinnah, the Muslim League and the Demand for Pakistan* (Lahore: Sang-e-Meel Publications, 1999), 15.

[136] 'Shahidganj Dispute', *The Times of India*, 1 October 1935.

Sardar Mangal Singh, emphasized this point in a speech given at a convention of the Khalsa Darbar, the largest Sikh umbrella organization.

> The most important questions that are agitating the mind of the community are the Communal Award and the new constitution, the Shahidgunj and the Kirpan questions. (…) The opposition of the Sikhs to the Communal award is not due to the desire of the Sikhs to oppose the legitimate demands of the Muslims with whom we want to live in friendship and cordiality but we oppose the award because it places us under an unchangeable and irremovable, statutory communal majority whose decisions we can not modify and whose opinions we can not influence. (…) We oppose the Award because in our land, the birthplace of the Sikhism where we have enormous stakes, we are being reduced to virtual political helots.[137]

Whereas Muslims had been given weightage in the Communal Award quite disproportionate to their numbers in at least six provinces, Mangal Singh maintained, Sikhs, who constituted 13 per cent of the Punjabi population, had only been given 18 per cent representation.[138] This mirroring, while hostile towards Muslims, nonetheless tied Sikh–Muslim political subjectivities closely together. As a minority with a history of rulership, Sikhs had to confront the same issues that Muslims were fighting on a national stage. Concerning the Shahidganj, Singh asserted, there was no 'moral responsibility' that Sikhs had brought upon themselves by tearing down the mosque, as they had acted under their legal rights.[139] Moral responsibility and legality in this account seemingly fold into one another.

The prominent SGPC leader, Master Tara Singh, was more careful in his defence of the destruction of the mosque and did not base it solely on legal grounds. In a letter to the Unionist leader, Sir Sikandar Hayat, he insisted that it had been 'Muslim bullying' that had triggered the destruction of the mosque and that Akalis would therefore not return 'an inch' of the land.[140]

[137] Mitra, *The Indian Annual Register: July–December 1935*, 311.
[138] Ibid., 313.
[139] Ibid.
[140] Durlab Singh, *The Valiant Fighter: A Biographical Study of Master Tara Singh* (Lahore: Hero Publications, 1942), 172.

The Punjab Muslim League was primarily concerned with the deaths that had occurred during the police firings in Lahore. They held that the government had employed unnecessary 'excessive and inhuman' force against 'unarmed and peaceful' Muslim demonstrators. Almost by way of exchange, the League now demanded the introduction of administrative steps from the government to make up for these shortcomings. The League sought adequate financial compensation for those killed in the firings. Also, they felt that Muslims should also have their own Gurdwara Act, an 'Auqaf Act' to establish a political platform for the centralized administration of mosques and shrines.[141]

The Ahrars, a Muslim organization, formed from disenchanted Khilafatists, had kept away from the agitation and continued to condemn the demonstrations and calls for civil disobedience openly. Large sections of the Muslim Press interpreted this as a strategic move given the upcoming council elections.[142] Gaining a portfolio in the Punjab Council, the Lahore daily *Zamindar,* for instance, titled, seemed far more critical to Ahrar leaders than standing up for Muslim interests. Closer analysis of the Ahrar manoeuvres would reveal, another commentator noted, 'that from beginning to end, these so-called leaders' had been 'exploiting the situation for the plumes of leadership and for the matter of the *chanda* that comes in its wake'. Whereas the 'Muslim masses' were 'thoroughly sound at heart' and 'held the promise of a strong, virile nation', its 'professional leaders', by contrast, were 'exploiting their religious fervour for ends of their own'.[143]

This feeling of disillusionment towards elected representatives was widespread, and the Ahrar only seemed to be a case in point. Such sentiments were, however, not limited to the urban public that stood in opposition to a ruling gentry, as the historian David Gilmartin argued in his account on the Shahidganj.[144] Feroz Khan Noon, the future Prime Minister of Pakistan, who was very much one of these professional leaders, was antagonistic towards the political manoeuvring of the Ahrar. In a letter written to his mentor Fazl-i-Husain, he repeated the liberal position that the 'ownership of the mosque should vest in the Sikhs in

[141] 'Muslim League on Lahore Firing', *The Light*, 8 September 1935.
[142] 'Masjid Shahidganj Ke Mutaliq Jido-O-Jehad Ka Aaghaaz', *Al Jamiat*, 5 August 1935.
[143] 'The Shahidganj Affair'.
[144] Gilmartin, 'The Shahidganj Mosque Incident: A Prelude to Pakistan'.

accordance with the decision of the Gurdwara Tribunal'. Nonetheless, he sharply critiqued the Ahrar for having 'carefully kept out' of the agitation, only to 'form the next cabinet with the Akali Sikhs'.[145] To avoid any contact with the demonstrators, their most prominent leader, Ata Ullah Shah Bukhari, had 'fled' from Lahore and was 'hiding' in 'Dalhousie or Mussorie'.[146]

Soon the demonstrations directed against Sikhs turned against the Ahrars, with 'at least 250 people' shouting slogans outside the Ahrar offices in Lahore. Using the colonial rhetoric of easily excitable colonial subjects, Feroz Khan concluded, aggrieved, that the 'infuriated mobs' who were all 'ready to die' had stopped listening to anyone.[147] The only lesson to be learnt from the conflict, for Feroz Khan, was that the 'imagination of the Muslim masses' should be captured in a single political party that was solely representing their interests, an instance of which at the time existed only in the All India Muslim League.[148]

A founding member of the Unionist Party, Chhotu Ram, described the situation on the ground in the following way: 'Muslims are without a leader at present, and wild young men are leading the mob.'[149] While legally Muslims had little grounds to ask for any concession regarding the property, Sikhs should acknowledge their 'moral duty' to 'wall up the actual site of the mosque for all time', Chhotu Ram held.[150] Eventually, the Ahrar leader Abdul Shah Bukhari joined another organization that had arisen to represent the interests of the mosque, the Majlis-e-Tahafuz Shahidganj.[151] For Fazl-i-Husain, a satisfactory solution for Muslim protesters could ultimately not be reached. Muslim demands, which, among other things, had come to include the rebuilding of the mosque, he believed, would never be met by Sikhs, not least because Muslims had already been legally 'defeated in this matter at all stages'.[152]

[145] Sir Feroz Khan Noon to Mian Sir Fazl-i-Husain, 20 July 1935 in Waheed Ahamd, ed., *Letters of Mian Fazl-I-Husain* (Lahore: Research Society of Pakistan: University of the Punjab, 1976), 410.
[146] Ibid.
[147] Ibid.
[148] Sir Feroz Khan Noon to Mian Sir Fazl-i-Husain, 9 August 1935, in Ibid., 426.
[149] Sir Chhotu Ram to Mian Sir Fazl-i-Husain, 20 July 1935, in Ibid., 412.
[150] Sir Chhotu Ram to Mian Sir Fazl-i-Husain, 21 July 1935, in Ibid., 415.
[151] 'Lahore Mein Majlis-E-Ahrar Aur Majlis-E-Tahafuz Masjid Shahidganj Ki Mashtarqa Committee Bana Di Gayi', *Al Jamiat*, 1 August 1935.
[152] Ahmad, *Diary and Notes of Mian Fazl-I-Husain*, 197.

On 27 September some Muslim members of the Legislative Assembly, among them Maulana Shaukat Ali, directly petitioned the Viceroy to find a solution to the conflict. The Shahidganj matter had become one of national concern, they contended, and was 'no longer confined to the city of Lahore'.[153] Like the Muslim League, they insisted on the payment of adequate compensation, the release of all Muslim prisoners that were interned during the demonstrations, and the introduction of legislation that would protect other mosques from future claims of adverse possession.[154] The reason that had compelled them to act in this matter, these elected representatives acknowledged, was an 'order' they had received from a Sufi *pir*, Jamaat Ali Shah.[155] Jamaat Ali Shah was elected to lead the Shahidganj agitations at a conference held in Rawalpindi and organized by the Khaksar movement and the Anjuman-e-Tahafuz Masjid-e-Shahidganj. A man in his nineties, and with a mostly wealthy urban following, Jamaat Ali Shah took on the title *Ameer-e-Millat* (leader of the community). The historian David Gilmartin has viewed the appeal of the title Ameer-e-Millat as a symbol for the deep religious and emotional commitments that this position had historically evoked in the collective imagination and memory of Indian Muslims.[156]

This view sits somewhat awkwardly with the fact that it was only after the repeated insistence of Inayatullah Mashriqi, a Cambridge graduate and founder of a radical Khaksar party, that the *pir* acquired much of his leadership credibility. That most participants in the conference preferred to address Jamaat Ali Shah as 'dictator' rather than the Islamic title that had just been conferred upon him also speaks to the fact that it was a modern fascist rhetoric of the Khaksars that was ascribed to the *pir*.[157]

While some Muslims indeed viewed Jamaat Ali Shah as the legitimate representative of an old religious order, the rallying around him did not seek to recreate or endorse an Islamic political order. Rather, it was

[153] Minute Paper: Shahidganj Mosque Dispute: Reception by the Viceroy in IOR/P&J/3960/35, British Library, London.

[154] Ibid.

[155] Ibid.

[156] Gilmartin, 'The Shahidganj Mosque Incident: A Prelude to Pakistan'.

[157] Syed Akhtar Hussain Shah and Muhammad Tahir Faruqi, *Seerat-E-Ameer-E-Millat* (Narrowal: Darbar-e-Sharif, 2004), 398; Markus Daechsel, 'Scientism and Its Discontents: The Indo-Muslim "Fascism" of Inayatullah Khan Al-Mashriqi', *Modern Intellectual History* 3, no. 3 (22 September 2006): 443.

reflective of global events that arose in the wake of a profound crisis of ethnic nationalism and concepts of belonging. Indeed, the deep mistrust of professional politicians and religious leaders can also be seen as having contributed significantly to the popularity of Jamaat Ali Shah, who, after all, was an anti-establishment figure.

For Inayatullah Khan Mashraqi, the *pir* symbolized 'a great anti-colonial figure' and deserved the support of Muslims only for this reason. The real task of the *pir*, Mashraqi proclaimed in a speech given shortly before the election of the Ameer-e-Millat, was to fight against the British and 'bring them down to their knees'.[158] This suggests that Jamaat Ali Shah's popularity was based mainly on his construction as an anti-colonial symbol and thus contradicts the view that Muslims were blindly following a leader.

On the contrary, it seems that it was the *pir's* insistence on theological reasoning that led to his swift removal from the leadership. Already in his acceptance speech, Jamaat Ali Shah had alienated the crowds by declaring that everyone who refused to follow his orders was disobeying the direct commands of Allah. He further astounded many participants with his statement that anyone who would not vote for the Muslim League was a *kafir* (unbeliever) whose funeral prayer should be boycotted.[159] To be sure, the *pir* was severely critiqued for these statements—largely by his urban followers—[160] and decided in early January 1936, just months after his appointment to the leadership, to leave Lahore and the conflict behind to undertake the pilgrimage to Mecca.[161]

The unfolding of events in the Shahidganj case, so far, has made evident how different conceptions of property rights were played out against each other. Legal positivism, as we have seen in the case of Mangla Singh, and Fazl-i-Husain, eventually made way for a more radical language of politics based on sacrifice and violence. In different ways, the Shahidganj critiqued the limits of liberal conceptions of justice, sovereignty, and temporality by envisioning counter-geographies to them. Many Muslim

[158] Shah and Faruqi, *Seerat-E-Ameer-E-Millat*, 456.

[159] Mohammad Sadiq Qasuri, *Ameer-E-Millat Aur Tahreek-E-Pakistan* (Karachi: Marqazi Majlis Jamaatia Pakistan, 1994), 55.

[160] David Gilmartin, 'Leadership and the Pakistan Religious Movement in the Punjab', *Modern Asian Studies* 13, no. 3 (2014): 492.

[161] *Malfuzat Ameer-E-Millat* (Lahore: Muhammad Ahmad Khan Naqshbandi, 2005), 178.

leaders were now, as we will see in the case of Muhammad Ali Jinnah, neither interested nor willing to settle their differences with other communities through legal pacts. This refusal to participate in political life as made up of contractual relationships at once made redundant the mediating role of the colonial state, and also, strengthened the categories of ethics and sacrifice as the necessary binaries for the newly emerging political language of India.

Conclusion

This chapter has shed light on how the Shahidganj dispute stood in for the crucial questions of nationality: representation, time, and territoriality. It has pointed out that the ways in which Indians approached notions of temporality and translated them to claims for nationality and sovereignty. The chapter has theorized and topographically outlined different conceptions of temporality. They have ranged from Darwinian dystopias and eschatological views to temporal ruptures that attempt to appropriate the present in more immediate ways.

One contribution of this chapter has been to resolve the tension between proponents of a more static or homogenous notion of time and postmodern adherents that view temporality (as many other things) as necessarily existing in fragments. This chapter has proposed thinking about these questions in their proper historical context. It has further suggested that certain events can produce 'temporal excesses' in which divergent temporal envisionings can form momentary unions that allow for an enunciation in collective (political) action. The breaking up and solidifying of time counterbalanced the purging of multiple ownership claims through legal deliberation. The legal development of the Shahidganj affair went hand in hand with later territorial claims during the call for Pakistan as a Muslim state on Indian soil. In this way, the chapter makes the case that temporality, politics, and law overlap in meaningful ways and cannot be studied distinct from one another.

4

Jinnah: A Thinker of Existential Survival

> Constitutions are made by the people, they are changed by the people, and they are torn by the people.
>
> *Muhammad Ali Jinnah, 1936*

This chapter seeks to outline the political thinking of Muhammad Ali Jinnah (1876–1946). Jinnah was arguably the most influential figure of the All India Muslim League in the turbulent years leading up to the Lahore Resolution of 1940 commonly referred to as the Pakistan Resolution. In that resolution he set forth—that set forth, albeit in vague terms, the conceptual prospect of a Muslim homeland as a palpable aim for Indian Muslims. Historical scholarship has so far predominantly focused on the years that followed the Lahore Resolution and particularly emphasized how Muslim nationalism transformed into a concrete demand for partition. This chapter will focus instead on the 1930s, a somewhat neglected decade. Yet as this chapter sets out to prove, many of Jinnah's intellectual formations and engagements with Congress leaders find their roots in this period of intense scholarly debate. Jinnah's entrance into the Punjab did not come in the years after 1940, as historians conventionally hold, but occurred already during the deliberations over the Rangila Rasul and Shahidganj dispute. The following seeks to highlight how the Rangila Rasul and the Shahidganj—local agitations in the Punjab—were absorbed into and transformed the national story.

Local agitations possessed an ideological signalling power that has mostly gone unnoticed for nationalist political leaders. While the erstwhile intervention of the Cambridge School essentially contended that the national movement only consisted of local factionalisms,[1] the

[1] See only Anil Seal, *The Emergence of Indian Nationalism: Competition and Collaboration in the Later Nineteenth Century* (Cambridge: Cambridge University Press, 1971).

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following departs from this reading insofar as it looks at the novel conceptual registers local agitation opened up for national politicians and even transformed the political 'subject (…) through an event'.[2] This chapter shows that legal debates produced the conceptual registers for a national conversation. Jinnah moved away from the law and created a new vocabulary of politics. This break with the law was a crucial stepping-stone to Jinnah's later elaborations on the idea of Pakistan.

Despite Jinnah's crucial role in the birth of radical Muslim politics, in an eventful global period that opened up possibilities of thinking about the limitations of liberal notions of rights, most historians have treated Jinnah as an advocate of securing liberties and a committed constitutionalist. The picture that emerges in these accounts mainly depicts Jinnah as a dedicated English-educated lawyer who treated the political representation of Muslims at the centre as a mere extension of his legal professions, which had earned him considerable wealth and reputation. Jinnah's political role, in these accounts, is mostly reduced to that of a petitioner in a quest to amass legal rights: from personal law and separate electorates. The ideological commitments of Jinnah's political gestures, particularly from the background of the twentieth century, where expansionist desires and violence had wrecked the idea of settlements between communities on contractual terms, remain enigmatic. In placing some of Jinnah's lesser-known speeches and writings within the proper historical context of the twentieth century, this chapter seeks to draw out the philosophical background of Jinnah's political thinking. It makes the case that Jinnah needs to be detached from nineteenth-century fixations with 'recovering liberties', capturing them, as it were, in constitutional provisions.[3]

This chapter is not alone in its ambition to unravel Jinnah's theorization of politics. It follows recent moves in scholarship that have focused more explicitly on the ideological dimension of Jinnah's political thought to revise narratives based on Namierian assumptions. Namierian views hold that political principles are merely rhetorical and moral posturing.

[2] This follows from Shurti Kapila's reading of Alain Badiou's notion of 'event', in Shruti Kapila, 'Global Intellectual History and the Indian Political', in *Rethinking Modern European Intellectual History*, ed. Darrin M. McMahon and Samuel Moyn (Oxford: Oxford University Press, 2014), 261.

[3] For the imaginative ways in which Indian intellectuals challenged conceptions of liberalism in the nineteenth and early twentieth century, see C. A. Bayly, *Recovering Liberties: Indian Thought in the Age of Liberalism and Empire* (Cambridge: Cambridge University Press, 2012).

Instead, they argue that the self-interest of the elite is the main catalysts for all political movement.

The main conceptual struggle in accounts that focus on Jinnah's political thinking has primarily been to assess the role of Islam in his political articulations. Modernist interpretations question whether religion carried the ideological force in the Pakistan movement. They compare religion to a smokescreen behind which material interest continued to operate. Primordial views take Jinnah's accommodation of religion seriously. In its most radical incarnation primordialism has declared Jinnah altogether a proponent of a theocratic state, a new Medina of sorts.[4] Just like Namierian accounts, however, which were written to break away from such ways of looking at political struggles, these narratives are reflective of the mood in today's political configurations in India and Pakistan. Both views attempt to confine Jinnah into a neatly demarcated 'secular' or a 'religious' category.

Others have argued that Jinnah did not look to the past to unravel ancient and authentic belief structures to substantiate his demand for separation. Instead, they claim, that Jinnah hollowed out and remodelled a new religious vocabulary, which he strategically employed.[5] Jinnah's references to religion—of which there are surprisingly many—are viewed as expressions of something else. Scholars have filled this 'something else' with a wide range of concepts that stretch from a purely instrumental rational to acquire political power to his envisioning of an entirely different political order.[6]

Notably, religious nationalism, as it emerged among Indian Muslims in modernist accounts, was no regional peculiarity of past-oriented, backward Muslims. Instead, it was an outcome of a complex interplay of global discourses over concepts like nationhood, religion, and democracy. The essence behind such assumptions is perhaps best captured in the evocative phrase by the historian Faisal Devji. For Devji, Jinnah 'was doing nothing more than clearing the historical and geographical

[4] Venkat Dhulipala, *Creating a New Medina: Sate Power, Islam, and the Quest for Pakistan in Late Colonial India* (Cambridge: Cambridge University Press, 2015).

[5] Faisal Devji, *Muslim Zion: Pakistan as a Political Idea* (London: C. Hurst & Co. Ltd., 2013).

[6] Jalal, *The Sole Spokesman: Jinnah, the Muslim League and the Demand for Pakistan*; Devji, *Muslim Zion: Pakistan as a Political Idea*.

ground, rejecting all that was inherited by the people of India to try and begin anew a remarkable act of New World hubris'.[7]

Such conceptualizations have, however, only further confirmed that Jinnah, in a legalistic manner, tied political means to legal ends. In all accounts that we find on Jinnah's political thought, he employed conceptions of Muslim nationality strategically in a legal context. He did this by negotiating a better social contract between Hindus and Muslims, acquire political power for himself and his acolytes, and in more favourable accounts, to improve the material status of the Muslim community through liberal forms of representation.

This chapter unsettles these conceptions. It develops the alternative interpretation that Jinnah's theorization of politics in the late 1930s provides us with a more stable historical framework with which to think through the fundamental issues that were at stake in the configuration of constitutional and democratic principles in India. More specifically, this chapter traces how Jinnah's actions and writings are reflective of a particular dimension of modern Muslim political thought that is concerned with cultural survival.

The following analysis of his discursive and deliberative contributions to the Indian public sphere in the 1930s investigates how Jinnah engaged with and ultimately rejected the legal language and concepts that had, as the previous chapters of this book have demonstrated, come to structure and dominate inter-religious violence during that time. The following historical analysis supports the view that, in the case of Jinnah, law and legal institutions were no longer considered a fruitful space for the political struggle and formation of Muslims in India. Instead, it appears that the legal space that had developed in the vacuum following the first glimpse of independence with the constitutional reforms of 1935 was—at least from Jinnah's point of view—already colonized by the Congress. From this perspective, *swaraj* (self-rule) had turned into an exclusionary form of Hindu majoritarianism. *Swaraj* left no room for Muslim political participation. Much like Gandhi, Jinnah resolved that the only possible response to this new form of domination was to disengage, even if this meant departing from the semiotics of the law entirely. Unlike Gandhi,

[7] Ibid., 43.

who pursued a form of non-violent resistance, Jinnah's position embraces the externalization of violence as a defence for cultural survival.

Only this disruption of the law, which had so far provided the crucial conceptual registers for the national conversation, allowed Jinnah to render territoriality a political issue, counter-intuitively however by returning into the legal framework through political means. It is the explicit argument of this book that legal antagonisms—the interlinked roles and natures of violence and law—are core determinants in the formation of modern Muslim politics. A close analysis of the thought and actions of Muhammad Ali Jinnah allows as the following analysis will reveal, novel insights into how law and violence converge and collide to give rise to new categories of modern politics in India and forward the idea of Pakistan.

War for Peace

In his New Year Message of 1938, broadcast from the Lahore Station of All India Radio, the Lahori poet Muhammad Iqbal, in one of his last public pronouncements before his death, questioned the validity of communal harmony based on nationalism. Iqbal held that even if Indian Muslims and Hindus were to reach a contractual arrangement on constitutional terms, it would necessarily be transient. At some level, this was due to the 'inhumanity' of political elites. At another, because technological progress, or the 'engines of destruction created by sciences', as Iqbal called them, threatened to wipe out all the 'cultural achievements' of man.[8]

Even countries with more homogenous populations in terms of ethnicity, race, language, and religion—like Spain or Russia—were killing each other on an unprecedented scale. Iqbal observed that the enlightenment ideals of 'liberty, equality and fraternity' were no longer present. India, with its heterogeneous population, in Iqbal's view, was ever more prone to such 'divisions' among men.[9] The political situation could only be described as 'the day of doom' that 'had come upon earth, in which each looks after the safety of his own skin, and in which no voice of human

[8] Latif Ahmed Sherwani, ed., *Speeches, Writings and Statements of Iqbal* (Lahore: Iqbal Academy Pakistan, 1977), 250.
[9] Ibid., 251.

sympathy or fellowship' was 'audible'.[10] This picture of the state of world affairs on the brink of destruction—where only forms of pre-apocalyptic activity informed by individualism and greed exist—according to Iqbal, had to be counteracted through a novel conceptualization of solidarity. For Iqbal, solidarity meant more than a unity of loose interests. He looked at it as demanding a common moral imperative and, with a heavily existential connotation, the ability to act in defence of a particular way of life. Jinnah adopted Iqbal's insights after their correspondence in early 1936 to 1937. In their exchange of letters, Iqbal had conveyed his view of the political and spiritual situation in India in precisely these terms:

> If such a thing is impossible in India [the establishment of Muslim states in the majority provinces of Bengal and Punjab] the only other alternative is a civil war, which as a matter of fact has been going on for some time in the shape of Hindu-Muslim riots. I fear that in certain parts of the country, e.g., N.W.India, Palestine may be repeated.[11]

Iqbal further clarified that the causes of this civil war stemmed from the threats to cultural symbols, be it the Prophet Muhammad or the desecration of sacred texts:

> I tell you that we are actually living in a state of civil war which, but for the police and military, would become universal in no time. During the last few months, there has been a series of Hindu-Muslim riots in India. In North-West India alone there have been at least three riots during the last three months and at least four cases of vilification of the Prophet by Hindus and Sikhs. In each of these four cases, the vilifier has been murdered. There have also been cases of burning of the Koran in Sind.[12]

In the concluding paragraph of the foreword to the publication of these letters in 1943, five years after Iqbal's death, Jinnah credited Iqbal for having opened his eyes and inspired both his attitude towards 'the constitutional problems facing India', and the 'political future of Muslims in

[10] Ibid., 250.
[11] Iqbal to Jinnah, 28 May 1937, in Allana, 'Pakistan Movement Historical Documents', 129.
[12] Iqbal to Jinnah, 21 June 1937, in Ibid., 130.

India'.[13] For Iqbal, the constitutional arrangement under the Communal Award, which gave Muslims separate electorates and weightage, was profoundly deceptive. Such reforms, Iqbal argued, were exclusively 'the upper class (…) and the relatives and friends of the ministers'. In Iqbal's view, such concessions amounted to little more than recognizing Indian Muslims as political subjects.[14] It is perhaps this statement that impressed on Jinnah the need to follow a path where political fraternity transcended constitutional provisions. Jinnah now relied on unity through the embrace of violence beyond the law.[15] Jinnah's involvement in the Shahidganj mosque dispute further substantiates how his political thinking oscillated between the distinct spheres of warfare and truce on the terms outlined in this chapter.

In early 1936, the Shahidganj dispute had long transcended the regional boundaries of the Punjab. The destruction of the mosque and the demonstrations that followed were widely reported in national newspapers and attracted considerable attention.[16] Muslim leaders from other provinces went to great lengths to establish a connection with the political sentiments that were prevalent in Lahore. While the arguments around *waqf* property, as this book examined in Chapter 3, make visible the desire to question colonial authority, it also ushered in a distinct temporal paradigm. The repeated statements that the mosque was protected 'until the day of judgement', meant that its destruction ushered in a post-apocalyptic temporality.[17]

When Jinnah reached Lahore on 21 February 1936, he declared that he had come to find an 'amicable solution in the Shahidganj conflict'.[18] Jinnah had been a member of the Legislative Council in 1925 and, in his capacity as a legislator, actively supported Sikh efforts to ratify the Gurdwara Bill in parliament.[19] In 1925, Jinnah strongly believed that

[13] Iqbal to Jinnah, 28 May 1937, in Ibid., 129.
[14] Iqbal to Jinnah, 28 May 1937, in Ibid.
[15] Carl Schmitt, *Der Begriff Des Politischen* (München und Leipzig: Verlag von Duncker & Humblot, 1932).
[16] See only: 'Masjid Shahidganj Ki Shahadat', *Al Jamiat*, 13 July 1935.
[17] David Cook, *Studies in Muslim Apocalyptic* (Princeton, NJ: The Darwin Press, 2002), 15–34.
[18] 'Appeal to Leaders: "Help Me"', *Civil and Military Gazette*, 22 February 1936.
[19] For the parliamentary discussion and Jinnah's vocal support: H. N. Mitra and Bipan Chandra, eds., *The Indian Annual Register 1925* (New Delhi: Gian Publishing House, 1993), 263–272.

India's legislature had 'solved' the 'great problem' of the Punjab.[20] A little more than a decade later, Jinnah's views had changed dramatically.

In the first interview given after his arrival, while still at the Lahore railway station, Jinnah pronounced that his role was that of a mediator, who had come to Lahore without any 'partisan spirit' and wanted to institute 'a friendly spirit' between Muslims and Sikhs.

> My task is purely that of a conciliator and peacemaker. I have arrived in Lahore in the full hope that the leaders of the various communities will help me to bring about a settlement, because the general and greater interest of the Punjab, and particularly of the city of Lahore, will be best served by the three important communities, Hindus, Sikhs and Muslims, working together and cooperating in a friendly spirit.[21]

This friendly spirit of cooperation, as Jinnah put it, was achieved with the help of other community leaders. Strangely, Jinnah pointed to the pitfalls and limitations of contractual arrangements. Jinnah first urged Muslims to give up the civil disobedience movement against the government and the economic boycott of Hindu businesses that some Muslims groups—particularly Inayatullah Mashriqi's Khaksars and Zafar Ali Khan's Neeli Poshs—had instigated in response to the destruction. Boycotts and civil disobedience were liberal forms of protest, Jinnah pointed out during a speech given at the Badshahi mosque on 22 February 1936, and would blur the lines between the stages of war and truce, and in so doing lead to further marginalization of Muslims in the political order of India:

> I felt that it was my duty to come to the Muslims of Lahore. I also felt that you cannot carry on war and negotiations for a settlement at the same time. I, therefore, of my own accord asked you to stop civil disobedience. (…) At the same time, I appeal to you to maintain a helpful attitude and do nothing which may hurt the feelings of the other communities. When there is a truce, let us act like honourable people as long as the truce lasts.[22]

[20] Pirzada Syed Sharifuddin, ed., *The Collected Works of Quaid-E-Azam: Mohammad Ali Jinnah, Vol. II 1921–1926* (Karachi: East and West Publishing Company, 1986), 391.
[21] 'Appeal to Leaders: "Help Me"'.
[22] 'I Have Come to Help You!', *Civil and Military Gazette*, 23 February 1936.

Significantly, Jinnah did not use the word peace with its more permanent temporal connotations regarding a lasting settlement, but rather in the sense of the ephemeral notion of a truce. Honourable people, bound by a set of moral norms and rules that transcend communal lines, could only inhabit this ephemeral space of short-lived ceasefires. However, the clear distinction between truce and war made it possible for Jinnah to envision a complete annihilation of all such honourable characteristics in a state of nature.

Almost in Hobbesian terms, Jinnah envisions communities posited against one another in an existential struggle for cultural survival. In a state of truce, it was mandatory for Muslims as an 'honourable community' to protect the 'religious sentiments' of others and not to fall back on liberal means of protest such as economic boycotts and civil disobedience. In a state of war, however, Jinnah regarded the concrete possibility to point towards and kill the enemy as the only adequate response. According to Jinnah, calls to uphold civil disobedience only diluted this clear distinction.[23] Jinnah linked war to cultural survival. Only when the survival of Islam was sufficiently secured, as a condition and not a consequence of war, could India's communities arrive at a settlement on legal grounds.[24]

At a function at Lahore's Town Hall on 2 March 1936, Jinnah elaborated on the relationship between legal pacts or constitutional provisions and genuine political sentiments of nations. For Jinnah such legal provisions, even if they took the shape of constitutional rights, were always just a solution to a specific problem. Legal provisions could not permanently dissolve communal antagonisms. Jinnah asserted that even the generous constitutional provisions under the Communal Award were all but transient. They did not possess any permanency, as they relied entirely upon the goodwill of the majority, or, to use his words, were 'always subject to alteration by the nation'.[25] A nation could, once it had set its mind to it, easily revoke and make redundant all such promised and legally

[23] Waheed Ahmad, ed., *Quaid-I-Azam Mohammad Ali Jinnah, The Nation's Voice: Towards Consolidation, Speeches and Statements March 1935–March 1940* (Quaid-iAzam Academy, 1992), 32.

[24] Jinnah's temptations with violence have been elaborated in Shruti Kapila, *Violent Fraternity: Indian Political Thought in the Global Age* (Princeton, NJ: Princeton University Press, 2021), ch. 5.

[25] 'Jinnah at Town Hall: Fair and Just Solution', *Civil and Military Gazette*, 3 March 1936.

guaranteed safeguards. Jinnah was sensitive to what we might describe, in relying on Carl Schmitt, as 'the double nature of sovereignty': the notion that although sovereign power constitutes itself through legal orders, its justification lies as much outside the legal framework as within it. This conceptualization allows for a radical change in the legal regime in situations where the figure of the popular sovereign—who can decide to suspend the legal order assert herself through violence and sacrifice in the state of exception—no longer feels bound to adhere to any contractual obligations.[26] In this sense, Jinnah's perspective on how law constituted political action was that it only bound those who had no power in and through it. In the context of national politics, deliberative freedom and contractual autonomy were ostensibly a farce.

Rather than achieving quick concessions on a contractual basis, then, Jinnah was much more concerned with the larger question of sovereignty and its relationship to the miraculous appearance of the popular sovereign. Since sovereignty was with the people, Jinnah regarded his primary task as transforming the collective consciousness of nations—in his case Hindus and Muslims—and changing their attitudes and behaviours in such a way that they would consider the possibility of a levelled antagonism. This would not only serve as a reminder to transcend objectives pursing immediate self-interest but more importantly realize the true nature of political configurations within national politics, wherein the public exhibition of sovereignty during civil war were incorporated into the political order. In other words, while contractual agreements were but decorative placeholders for national sentiments, the possibility of violence could bring about a more radical transformation. Jinnah thought that it could even institute a lasting political arrangement between religious communities in India:[27]

> Believe me, I have not come here as a Muslim leader. I have not come to champion the cause of the Muslims. I have only one object before me and that is that a fair and just solution of the problem should be found and if it is fair and just, it will be honourable and lasting. (…) If you

[26] Carl Schmitt, *Politische Theologie* (Berlin: Duncker & Humblot, 1922), 13–24.

[27] See Shruti Kaplia, V*iolent Fraternity: Indian Political Thought in the Global Age* (Princeton, NJ: Princeton University Press, 2021), ch. 7.

> rise above everything else, if the leaders will leave aside everything else and take the issue completely in their hands and face them, whatever [the] consequences may be, it can be solved in no time. I am not belittling the enormity of the task. When the dispute takes the form of the religious sentiments of both communities, it is very difficult to make the ordinary man understand. But the more difficult the greater should be our efforts. Although it is a very small question, yet in another sense it is a very big question. From small beginnings we can achieve bigger things.[28]

At a dinner hosted at the Rotary Club on 6 March 1936, Jinnah acknowledged that the Shahidganj dispute was linked to a 'human problem' rather than a legal one. More to the point, Jinnah contended, it was 'not within the pale of the law to work out an honourable settlement of the problem'.[29] When someone asked Jinnah later how such an honourable settlement could look, he responded that since the dispute was between 'two great communities' it had to respect 'their feelings' and should not be 'derogatory to their self-respect'.[30] The notion of respect that Jinnah proposes superficially seems to suggest that it was some form of a shared cultural burden that bound Sikhs and Muslims together. However, and perhaps more importantly, it signalled more strongly towards Jinnah's understanding that in the state of nature and its implicit struggle for survival and existential recognition, novel relationships between communities only be established based on antagonism. It is thus in the following way that Jinnah outlined the reasons for Muslims and Sikhs to look at each other with respect, at a speech given on 28 February 1936:

> In the past, we have fought against them, and they have fought against us; we have beaten them and they have beaten us. They are a great and brave community, and I think I am voicing the true feelings of Muslims when I say that nothing will please the Muslims more than an honourable settlement between the two brave communities of the Punjab.[31]

[28] 'Jinnah at Town Hall: Fair and Just Solution'.
[29] 'Jinnah Again', *Civil and Military Gazette*, 7 March 1936.
[30] Ibid.
[31] 'Shahidganj Dispute: Jinnah's Speech', *Civil and Military Gazette*, 29 February 1936.

If this notion of respect could be extracted from a shared history of violence, it was through violence alone that a sense of respect towards Muslims could be re-established. In this, Jinnah reveals a very different understanding of politics than advocating for political rights at the centre.

Jinnah's fundamental concern was towards the moment of exception when legal rights ceased to provide any meaningful structure for colonial subjects. He feared that in a future Indian Republic, Muslim citizens would suffer under the unrestrained power of the popular sovereign, which for him was synonymous with a majoritarian rule in a Hindu Raj. His repeated insistence on Hindu Raj was thus not merely rhetorical to substantiate his case for representing Indian Muslims, as is conventionally believed. Instead, it sprung from his conviction that in the state of exception, India would fall back to her default communitarian identities, which could only be religious. Jinnah stressed this point further in an address to students at the Speaker's Union of Dayal Singh College in Lahore on 5 March 1936, where he said that it was significant to unite behind one leader. It was in this way, Jinnah believed that the will of the community could be adequately represented. He even compared the situation of India to the recent fascist developments that had taken place in Germany and Italy:

> This College does not believe in any creed and I, too, feel that the salvation of India lies in the non-sectarian feelings. It was this creed which I had in the past, which I have in the present and which I will have in the future dearest to my heart. You, Sir [Lala Lajpat Rai], talked of Mussolini and Hitler, we cannot have dictators in India for a Dictator to be a real one and not in name only must have the power to punish and the power to reward. He must have an army to back him. (…) Have we one single leader in India or even in one community who can command the wholehearted loyalty and allegiance of the country or the community or even the intelligentsia? Is there one leader who can speak for you? Let me have that much at least: the very fact that there is a united front which has a man who has the power to speak for them is irresistible.[32]

[32] 'Jinnah Again'.

It is striking that the only historical parallel for the conflict that Jinnah proposed, when pushed to outline more clearly how one could solve the Shahidganj dispute without relying on law, was the tussle of Germany and France over Alsace-Lorraine in the long-nineteenth century. With the Treaty of Frankfurt in 1871, the Alsace, a small territorial strip that lay on the western side of the Rhine but made up the entire border region between France and the Reich, was transferred to the German Empire. While its population was given a choice to leave their homes and settle in France if wanted, the 'peace-treaty' had left France, in Jinnah's words, 'in mourning from 1871 till the Great War, when they got it back'.[33]

In the Shahidganj case, Indian Muslims had, comparable to the French, lost a small portion of land and were now mourning their loss. Unlike France, however, they would not sign any treaty to legitimize the land grabbing; Indian Muslims, on the contrary, were to insist on an honourable settlement, through a genuine 'politics of recognition'.[34] Jinnah's unwillingness to enter into a legal relationship with Sikhs or Hindus, and his open gestures towards civil war as a way to reconstitute new political fraternities, suggest a deep suspicion of the law as a reliable medium to settle conflicts between communities in a liberal political framework. Formal legal constellations, based as they are on specific mechanisms of representing identities, for Jinnah, always ran the danger of being captured by the 'vested interests' of an 'elite'.[35] To counteract this imbalance, communities should group behind a 'single leader' who could take all the final decisions on their behalf, within and outside the framework of any legal constellations. Liberalism had obfuscated the relationship between identities and elected representatives, just as it had attempted to dissolve the interplay between sovereignty and violence.[36] While the British had recognized Muslims as a separate community in India, Jinnah pessimistically held that Muslims had failed to produce a national political reality. The recent election had proven beyond doubt, Jinnah held, that Muslims were little more than a 'No-Mans-Land' and any claimant could 'squat' on them and declare, 'I am your owner'.[37] It was not representation in any

[33] Ibid.
[34] Ibid.
[35] Ahmad, *Quaid-I-Azam Mohammad Ali Jinnah, The Nation's Voice: Towards Consolidation, Speeches and Statements March 1935–March 1940*, 34.
[36] Ibid.
[37] Ibid., 31.

legal sense that Jinnah was striving for but a unity beyond electoral processes and a politics of negotiations.

Once the Muslim masses were liberated from their evil leaders, they would be able to unite behind one leader who could solve conflicts by taking the ultimate decision and using all means necessary. Jinnah did not believe that a genuine reconciliation of Sikhs and Muslims could come about with a legal pact signed by representatives of both communities. Rather, he argued that it was crucial to transcend this contractual approach in favour of a genuine 'politics of recognition', one that was based on sacrifice and violence.[38]

For Jinnah, a more permanent solution to the Shahidganj dispute had to involve specific steps. First, Muslims had to speak with one voice and overcome the current situation of factionalism. This unity was the most important political imperative, as it allowed appropriate representation at the national level, and the establishment of a coherent and disciplined hierarchical structure to stand prepared for civil war. This preparedness was the necessary condition, in Jinnah's view, to enter into any greater political 'brotherhood' with Hindus and Sikhs, or even a 'complete unity' of all inhabitants of India to 'tackle' the 'much bigger problems' of the country.[39]

It is therefore befitting that Jinnah, before he departed for Bombay on 7 March 1936, advised the foundation of a 'Shahidganj Conciliation Committee', to which he, 'after thinking about the matter carefully' nominated four Muslims, led by Muhammad Iqbal, and five Sikhs.[40] As the Punjab Muslims constituted the majority of the population, albeit, by a small margin, Jinnah sought to balance out their strength in numbers by providing a greater representation of Sikhs in the conciliation committee. The duty of the committee for Jinnah was to capture 'the general wishes of the people' and to act as 'intermediaries' between them and their 'respective leaders', who would, he hoped, take decisions that would lead to an 'honourable settlement'.[41]

Jinnah did not solve the conflict, as has sometimes been claimed in nationalist scholarship. At the same time, he did not leave his 'clients in

[38] Ibid., 32.
[39] Ibid., 26.
[40] 'Jinnah's Proposal', *The Tribune*, 8 March 1936.
[41] Ibid.

a sac-du-cul', as the Unionist leader Fazl-i-Husain mockingly noted in his diary.[42] What Jinnah did accomplish, and what was arguably to define him in his later political struggle, was to map out a new politics that could no longer be confined to legal pacts between communities, but was always pregnant with the possibility of violence. It is ostensible that, following the Shahidganj conflict, Jinnah's position—a view widely mirrored by many within the communities on whose behalf he spoke—indicated a profound disillusionment with the law's promise of reasoned justice. It also renders it visible that the modern legal framework that had emerged on the subcontinent, initially through colonial transplants, was, although promising at first, arguably stifling to the development of meaningful political action. The promise of constitutionalism was, Jinnah stressed, failed to resonate with the underlying power structures in the Indian social system. Devised as they were for the legal constituting of European social orders, they inevitably exerted muting violence and appropriated pathways for political subjugation. In this sense, Muslim political subjectivity before partition ultimately emerged in resistance to the forms of legal cognition that had initially sparked it.

Corrupted Legal Spheres

By now, Jinnah had realized that he could not solve issues around sacred space through legal means. Such disputes required political solutions. The problem was not religion so much, but the representation of religion in politics; religion had moved out of the legal sphere. Jawaharlal Nehru set the tone for future talks with Muhammad Ali Jinnah when he, in an exchange of letters in early 1938, insisted that Jinnah should clarify his political position. In particular, Nehru demanded, Jinnah should outline his 'points of departure' from the political agenda of the All India Congress, a party to whose principles Jinnah had once sworn allegiance:[43]

[42] Waheed Ahmad, ed., *Diary and Notes of Mian Fazl-I-Husain* (Lahore: Research Society of Pakistan: University of the Punjab, 1977), 204.

[43] In the early decade of the twentieth century, one of the most senior Congress leaders, Gopal Krishna Gokhale, viewed Jinnah as the 'greatest ambassador of Hindu-Muslim unity': Sarojini Naidu, *Mohomed Ali Jinnah: An Ambassador of Unity, His Speeches & Writings 1912–1917* (Madras: Ganesh & Co., 1918), 24.

> I am afraid I must confess that I do not yet know what the fundamental points of dispute are [between the Congress and the League]. It is for this reason that I have been requesting you to clarify them. So far, I have not received any help in this direction.[44]

In the winter of 1936–1937, Nehru had led the Congress to a landslide victory in the first Indian provincial elections. Although the League had emerged as a sizable force, Jinnah's vision of uniting Muslims under one political banner had been frustrated, with the League securing only about half of the reserved seats for Muslims under the Government of India Act of 1935, the so-called Communal Award.[45] The electoral segregation based on religion, and the substantial concession that the Award made regarding a federalist structure of India, sat awkwardly with the rhetoric of both the League and the Congress. Congress leaders felt that the Award made it more difficult to forgo the minority question in their election manifesto, which they nonetheless managed to do. For the League, the emergence of provincial Muslim organizations that contested the same reserved seats—particularly the Unionist party and the Krishak-Proja party in the Muslim majority provinces—fundamentally undermined the legitimacy of the League's claim to exclusive representation of Muslim interests.

Unsurprisingly, Muslim opinions differed widely on economic, cultural, religious, and social questions, and in this sense were no different from the spectrum of views held by the general electorate.[46] The more significant aim to liberate India from 'external authority', which was supported by the Congress and the League alike, made it possible to find common ground, in a strategic essentialism of sorts, to work collectively towards independence.[47] After lengthy internal debates, whether the Congress should 'work' the constitution and set up ministries with the

[44] Nehru to Jinnah, 10 February 1938, in S. Gopal, ed., *Selected Works of Jawaharlal Nehru, Volume 8* (Delhi: B.R. Publishing Corporation, 1988), 223.

[45] Election results are reprinted in: Nripendra Nath Mitra, ed., *The Indian Annual Register: January–June 1937, Vol. I* (New Delhi: Gian Publishing House, 1999), 243–263.

[46] The Sunni-Shia agitations around the issue of *madhe-sahaba* and *tabarrah* in Lucknow are but one example: Justin Jones, *Shi'a Islam in Colonial India: Religion, Community and Sectarianism* (Cambridge: Cambridge University Press, 2012).

[47] I borrow the term 'strategic essentialism' from the literature critic Gayatri Spivak: Gayatri Chakravorty Spivak, *The Post-Colonial Critic: Interviews, Strategies, Dialogues*, ed. Sarah Harasym (New York and London: Routledge, 1990), 95–112.

majorities that they had won, or 'wreck' it by continuing with the policy of non-cooperation, the Congress eventually decided to do both. They would constitute six ministries, which would work towards wrecking the system from within. Jinnah also thought that participation in limited self-rule was desirable. By participating, Indian ministers could find solutions for the 'removal of poverty and the betterment of the condition of the masses'.[48]

After the election, Jinnah repeatedly asserted his willingness to cooperate with the Congress. In the Lucknow session of the Muslim League on 16 October 1937, Jinnah stressed that 'we shall not hesitate to co-operate with any party or group in any practical and constructive programme for the welfare and the advance of the provinces or the country'.[49] Other prominent members of the League were even more outspoken in the need for a united line of action, which indeed brought them even closer to the Congress party, as is visible in Wazir Hassan's address to the Bengal Presidency Muslim League on 22 August 1937:

> I have shown above that the object of the All-India Muslim League is the same in substance as the object of the Indian National Congress i.e., the attainment of responsible self-government for the country and nobody blames to-day either the Muslin League or the Mussalmans of India that they lack in ideals. (…) The Indian Mussalman must join the Congress, and the reasons for doing so are implicit in the bare statement of the nature of the fight. No sacrifice is too great in this cause. (…) Delaying in our march to freedom shoulder to shoulder with the Congress until settlements [are] made is not only opposed to the constitution of the League but is highly derogatory to our national honour and political morals.[50]

Jinnah and Nehru began a conversation on the basic principles of their political agendas. Subhas Chandra Bose, President of the Congress party at the time, somewhat optimistically anticipated that they would arrive at a complete 'settlement' of the 'communal

[48] Nripendra Nath Mitra, ed., *The Indian Annual Register: July–December 1937, Vol. II* (Calcutta: The Annual Register Office, 1939), 403.
[49] Ibid., 405.
[50] Ibid., 414.

question'.[51] The strategic assistance that the Congress had provided to some of the Muslim League candidates in the United Provinces, primarily to defeat the government-backed landlords, had strengthened the view that the League and the Congress could work together. They a lot in common in their political programmes, despite later quarrels that arose over the concrete possibility of constituting a coalition government.[52] On 18 January 1938, Nehru wrote to Jinnah to inquire about the prospect of a more formal arrangement between the two All India parties:

> I have been anxious to find out what the points of difference and agreement were. I am afraid I do not know this yet, and your last statement does not help. I think this will help us all and lead to an avoidance of needless controversy. We can then come to grips with the subject. As I have said in my last statement, we are eager to do everything in our power to put an end to every misapprehension and to endeavour to solve every problem that comes in the way of our developing our public life along [the] right lines and promoting the unity and progress of the Indian people.[53]

Jinnah's response to this invitation to bring forth his case for Indian Muslims reveals his reluctance to engage seriously in such forms of political appeasement, through formal legal and contractual agreements. In his first reply on 3 March 1938, Jinnah attempted to ignore Nehru's insistence to 'be enlightened' about the grievances of Indian Muslims, and instead posited that written correspondence was both 'undesirable and inappropriate' to settle such concerns.[54] The hostile tone of Jinnah's letter speaks to the fact that he had been well aware of recent statements made by Jawaharlal. He would bring them up at a later point in their

[51] 'Mr. Subhas Bose in Calcutta: Jinnah-Nehru Talks Welcomed', *The Times of India*, 24 January 1938.

[52] In the historiography on Indian nationalism some have identified this refusal of the UP Congress to enter into a coalition with the League as the main reason behind Muslim estrangement—as a type of Ursünde—and outlined the structural proximity of the UP Congress to Hindu supremacist organizations such as the Mahasabha and the Arya Samaj; see only: William Gould, *Hindu Nationalism and the Language of Politics in Late Colonial India* (Cambridge: Cambridge University Press, 2004).

[53] Nehru to Jinnah, 18 January 1938, in Gopal, *Selected Works of Jawaharlal Nehru, Volume 8*, 212.

[54] Jinnah to Nehru, 3 March 1938, in Syed Sharifuddin Peerzada, ed., *Leaders' Correspondence with Mr. Jinnah* (Bombay: Sh. Nazir Ahmad, 1944), 92.

conversation. Nehru had downplayed the importance of the minority question and promoted to view Indian society solely through an economics lens. The Congress election manifesto was thus filled with professions to redeem the plight of the ordinary workers, to 'fight hunger', and to improve the living conditions of the poor. On 1 May 1938, during a speech at a Congress rally, Nehru reasserted his view that the real causes of the recent riots between Hindus and Muslims had been political rather than religious:

> I have given much anxious thought to the recent communal riots and have come to the conclusion that the root cause of these riots is political and not religious. There are people who want to stop the onward march of India to its destined goal. They know that they cannot do that. But it is possible for them temporarily to deflect and divert the course of national endeavour. It is these persons which are interested in communal disorders. It is curious that these gentlemen studiously refrain from the discussion of economic problems facing the masses at their meetings. (…) The main problem of India is the problem of the workers and peasants.[55]

Nehru's insistence that religious conflicts in India were nothing more than the symptoms of an old elite that was failing to come to terms with the basic ideals of secular democracy questioned the substance behind any communal politics on the subcontinent. Only a few weeks earlier, at the Haripura session of the Indian Congress, Nehru had specified that, having 'examined the so-called communal question through the telescope', he had concluded that 'if there is nothing, what can you see', although he later disputed this statement.[56] What was far more crucial to Nehru was viewing the various antagonisms within Indian society from a purely materialistic perspective. This conceptual framework allowed Nehru a Marxian universalization of the political subject. He could now consider individuals within an egalitarian framework as a worker or peasant, and only subsequently as a cultural being with a distinct religious identity, as he made clear in a letter to Jinnah on 6 April 1938:

[55] 'Nehru's Speech on May Day', *The Tribune*, 3 May 1938.
[56] 'The Communal Question', *New Times*, 1 March 1938.

> My mind is continually occupied with the problems of these unhappy masses of this country and I view all other problems in this light. I should like to view the communal problem also in this perspective for otherwise, it has no great significance for me.[57]

Nehru could only take demands for minority protection seriously as proposals from interests groups—of which the Muslim League was but one. He felt that Jinnah attempted to deflect from the primary aim of acquiring 'India's freedom' and the 'ending of the poverty of her people':[58]

> I do not understand what is meant by our [the Congress] recognition of the Muslim League as the one and only organisation of Indian Muslims. Obviously, the Muslim League is an important communal organisation, and we deal with it as such. But we have to deal with all organisations and individuals that come within our ken. (. . .) There are special Muslim organisations such as the Jamiat-ul-Ulema, the Proja Party, the Ahrars and others, which claim attention. Inevitably the more important the organisation, the more attention [is] paid to it.[59]

Jinnah was not unaware of the harsh economic conditions that many Muslims faced. Unlike Nehru, however, Jinnah did not believe that the economic conditions alone, material as they might be, could be utilized to establish an all-encompassing political consciousness. If one were to employ a reductive economic lens to solidify political subjects, then, Jinnah feared, the rhetorical refuge to a vocabulary of efficiency would necessarily lead to an increase in suffering. For Jinnah, whoever spoke of economic empowerment and uplift for the Indian populous in general, without grounding it in the particularity of communal groups, was ultimately divorced from the 'realities which face us in India':[60]

> Congressmen say that the question before the country is economic, namely, poverty and hunger. It seems to me that this is putting the cart

[57] Nehru to Jinnah, 6 April 1938, in *Nehru-Jinnah Correspondence* (Allahabad: J.B. Kripalani, General Secretary, A.I.C.C., 1938), 126.
[58] Ibid., 125.
[59] Nehru to Jinnah, 6 April 1938, in Ibid., 123.
[60] Jinnah to Nehru, 12 April 1938, in Peerzada, *Leaders' Correspondence with Mr. Jinnah*, 130.

> before the horse. This policy and plea for hunger and poverty may succeed temporarily for the reasons are obvious.[61]

Moreover, Jinnah resisted the absorption into a formalized political sphere, as laid out by Nehru, and was sceptical of reducing Indian Muslims to mere stakeholders in a struggle of interest politics. In his response to Nehru, written on 3 March 1938, Jinnah clarified his position in the following way:

> You wind up your letter by insisting upon the course that I should formulate the points in dispute and submit to you for your consideration and then carry on correspondence with you. This method I have already stated in my considered opinion is undesirable and inappropriate. The method you insist upon may be appropriate between two litigants and that is followed by solicitors on behalf of their clients but national issues cannot be settled like this.[62]

This quote clearly reveals that Jinnah considered legal language, and other parameters of discourse that had come to dominate the sphere of liberal politics, as unsatisfying for meaningful political action. It is ostensible that Jinnah—a lawyer himself—regarded contracts, constitutions, and legal agreements as insufficient means for the kind of politics he thought necessary. In contrast to Nehru's 'civil' proposals for legalistic problem-solving, Jinnah was advocating violence. However, one must be careful to read his rejection of formal legal arrangements as an outright act of violence itself and instead inquire into the different forms of violence, oppression, and aporia woven into political action. A particular anchor of the violence and injustice of legalistic politics was, from Jinnah's perspective, the problem of majoritarianism in light of two communities that were to inhabit the same territorial space. As he remarked at the Presidential Address to the Muslim League Lucknow in October 1937:

> No settlement with the majority community is possible, as no Hindu leader speaking with any authority shows any concern or genuine desire

[61] 'Take Minorities With You', *Civil and Military Gazette*, 6 May 1937.
[62] Jinnah to Nehru, 3 March 1938, in *Nehru-Jinnah Correspondence*, 46.

> for it. Honourable settlement can only be achieved between equals, and unless the two parties learn to respect and fear each other, there is no solid ground for any settlement. Offers of peace by the weaker party always mean confessions of weakness and an invitation to aggression. Appeals to patriotism, justice and fair play, and for good will, fall flat. It does not require political wisdom to realise that all safeguards and settlements would be a scrap of paper, unless they are backed up by power. Politics means power and not relying only on cries of justice or fair play or good will.[63]

Jinnah's assertion that 'politics means power and not relying on cries of justice' epitomises how he demarcated political and legal action. It becomes apparent that for him, succumbing to legal deliberations in a field where he and those he represented held no legal capital or power was indefensible; an omission of his obligations as a political leader. His reluctance to participate in discussions with the Congress was fundamentally informed by his belief that such talks would take place in a juridical sphere of negotiations where any obligations beyond the contractual could, in the best case, only crystallize in a moral imperative to the stronger party. Any enforcement of such contractual obligations, for instance, concerning minority safeguards, could ultimately just rely on the 'fair play and good will' of the majority population, which effectively empties such rights of any meaning when considered from a state of exception.

Entering an arrangement with the Congress for Jinnah was premised on the condition that equality had to be recognized on some deeper level where political power was not already marginalized. Nehru's legalistic framing of the minority issue and his insistence that it could be solved through granting enough concessions and safeguards to Jinnah,[64] or pushing him to demand them from the Congress (and in so doing acknowledge the role of the Congress as an almost sovereign entity capable of distributing rights and justice), was the moment of departure. Jinnah wrote this in the following way to Nehru:

[63] Gulam Allana, 'Pakistan Movement Historical Documents' (Karachi: University of Karachi, Department of International Relations, 1969), 151.

[64] In his letter of 8 March 1938 Nehru said that a settlement of the minority question would involve the 'improvement' of institutional guarantees and safeguards: Nehru to Jinnah, 8 March 1938, in Peerzada, *Leaders' Correspondence with Mr. Jinnah*, 95.

> The question, with which we started, as I understood, is of safeguarding the rights and the interests of the Mussalmans with regard to their religion, culture, language, personal laws and political rights in the national life, the government and the administration of this country. Various suggestions have been made which will satisfy the Mussalmans and create a sense of security and confidence in the majority community. (. . .) But if you desire that I should collect all these suggestions and submit to you as a petitioner for you and your colleagues to consider, I am afraid I can't do it nor can I do it for the purpose of carrying on further correspondence with regard to those various points with you.[65]

In another letter to Nehru, Jinnah is even more direct in his criticism of the Congress as assuming a sovereign position, and in its attempt to act as a mediator between different interest groups on the Indian subcontinent. Against Nehru's statement that interests from other minority communities had to be balanced by the Congress, as none of them could claim to speak with one voice,[66] Jinnah argued that this statement revealed that Nehru saw the Congress as 'the sovereign power'. For Jinnah, the Congress was not the umpire to decide over the quality of claimants for minority representation or to 'extend patronage' to these groups. The All India National Congress was not the colonial state.[67]

In response to the 1928 Nehru Report, a constitutional memorandum that vaguely outlined the contours of what a constitution in India under dominion status might look like,[68] Jinnah had instituted his so-called Fourteen Points. He was well aware of the reference to Woodrow Wilsons's fourteen points at the end of the Great War. In those fourteen points, Jinnah contended that the primary aim for Muslims was to reserve one-third of all central, provincial, and cabinet seats.[69] Only a disproportionate arrangement of representation—Indian Muslims formed

[65] Nehru said that Muslim were split up in 'Trade Unions, Peasant Unions, Kisan Sabhas, Debt Committees, Zamindar Associations, Chambers of Commerce, Employer's Association' Jinnah to Nehru, 17 March 1938, in Ibid., 98.

[66] Nehru to Jinnah, 6 April 1938, in Ibid., 124.

[67] Jinnah to Nehru, 12 April 1938, in Ibid., 130.

[68] H. N. Mitra, ed., *The Indian Annual Register, July–December 1928, Vol. II* (New Delhi: Gian Publishing House, 1948), 25–56.

[69] The proceedings of the League Council and Jinnah's statement can be found in: H. N. Mitra, ed., *The Indian Annual Register, January–June 1929, Vol. I* (New Delhi: Gian Publishing House, 1948), 362–373.

approximately one-quarter of the population—would make them stand on a 'footing of complete equality' with Hindus. Muslims could enforce and protect their rights, and if necessary, fight for them with the residuary powers endowed in the various executive bodies that they would come to occupy.[70] Arriving at a space where negotiation even became possible, for Jinnah, required the institution of fear and respect through 'inherent strength'—in other words, the possibility of violence to 'determine the measure of importance or distinction' any minority or party possessed.[71] Jinnah's reference to 'inherent strength' must be understood to mean that Muslims—though mostly excluded from the juridico-political field of deliberation—had real power. They derived this power from their ability to fight. Muslims, according to Jinnah, could therefore contest the Congress' claim to the legitimate monopoly of physical violence.[72]

That Jinnah's statements were declarations of war, was well understood and grudgingly accepted by several Indian leaders. However, this war was peculiar, as Jinnah repeatedly stated, for it did not seek to justify the deposition of the physical life of other human beings on moral grounds. For instance, it was not a war against an external occupier that had forcibly conquered one's homeland. Instead, Jinnah declared necessary a novel political space that had not been hijacked by legal discourse—an arena of raw politics in which struggles for legitimacy and power could occur. Jinnah viewed Indian Muslims as existentially threatened in their way of life and their attainment of the 'rightful part in the national life of the country'.[73]

The cause of this violence, for Jinnah, or the '*casus belli*', as he put it during an address in Lucknow in October 1937, was the existential threat faced by the majority, where war was justified 'purely in self-defence' to 'safeguard the rights of Indian Muslims'.[74] In the case of the Shahidganj mosque, Muslims had resorted to the legal sphere to challenge its destruction. But Jinnah now proposed the opposite. As legal categories and

[70] Jinnah to Nehru, 12 April 1938, Peerzada, *Leaders' Correspondence with Mr. Jinnah*, 132.
[71] Jinnah to Nehru, 12 April 1928, Ibid.
[72] Max Weber, *Geistige Arbeit Als Beruf: Vier Vorträge Vor Dem Freistudentischem Bund, Politik Als Beruf* (München und Leipzig: Verlag von Duncker & Humblot, 1919).
[73] Allana, 'Pakistan Movement Historical Documents', 147.
[74] Ibid., Jinnah to Gandhi, 5 November 1937, in *The Collected Works of Mahatma Gandhi, VXXII (July 1937–February 1938)* (New Delhi: The Director, Publications Divisions Ministry of Information and Broadcasting Government of India, 1972), 494.

justificatory narratives had been corrupted, or in his words 'flattened', the only possible arena for political action was that of bodies, and life itself. Jinnah's description of the violence of Hindu majority rule resonates with Walter Benjamin's 1921 essay *Critique of Violence*. In his essay, Benjamin characterizes the concealed but insidious violence inherent in the law. Benjamin writes that through the violence of its origin and its continued existence—'something rotten in law is revealed'.[75] As emphasized by Douglas-Scott in her characterization of modern law, for Benjamin, the law was sustained by an endlessly repetitive cycle of violence.[76] This process could only be interrupted by an altogether different form of violence. 'But, if the existence of violence outside the law, as pure immediate violence, the highest manifestation of unalloyed violence by man, is possible, [it is possible to break the cycle].'[77] We may rely on Benjamin's critique of law's violence to make sense of Jinnah's rejection of entering into the fold of deliberation, and his labelling of a legally ordered polity as a state of civil war.

Furthermore, Benjamin's characterization of a 'pure' space outside the law as a possible position for contestation is replicated in Jinnah's demand for a pure and immediate form of human resistance to it. Jinnah's use of the legalistic concept of *'casus belli'* to rationalize his opposition to the dominant legal is almost sarcastic. Through his comment, Jinnah articulates that he can see through the veil of legitimacy and morality in which codes, constitutions, and contracts shield themselves.

Gandhi's telling letter to Jinnah on 19 October 1937 almost seems to concede to Jinnah's view reluctantly. Instead of revising Jinnah's premise, Gandhi only laments that he could not mediate the conflict and soften its blow.

> I carefully went through your speech at Lucknow, and I felt deeply hurt over your misunderstanding of my attitude. (. . .) Of course, as I read it, the whole speech is a declaration of war. Only I had hoped you would sever poor me as a bridge between the two [belligerents]. I see that you

[75] Walter Benjamin, *Reflections: Essays, Aphorisms, Autobiographical Writings* (New York: Schocken Books, 1978), 286.

[76] Sionaidh Douglas-Scott, *Law after Modernity* (Oxford and Portland, Oregon: Hart Publishing, 2013), 239.

[77] Benjamin, *Reflections: Essays, Aphorisms, Autobiographical Writings*, 300.

> want no bridge. I am sorry. Only it takes two to make a quarrel. You won't find me one, even if I cannot become a peacemaker.[78]

The claim to the role of a peacemaker, or a mediator—a position that Nehru would have liked to reserve for the entire Congress—was not limited to Gandhi; Jinnah, too, sought to appropriate this role, although his conceptualization of what mediation entailed was slightly different to that of Gandhi. In Gandhi's political language, mediation is perhaps best described as a process of sublimation and an internalization of physical violence that is laid bare in the antagonisms that mediation seeks to alleviate.[79] In turning his body into the primary site of violence, Gandhi sacrificed his body as a redemptive 'bridge' to absorb the tension between Hindus and Muslims. In Gandhi's conceptualization, violence formed a constitutive part of every earthly existence. Its prevalence everywhere required ethical acts of self-sacrifice, of which Gandhi's fasts unto death represent the most visible examples.[80] Any mediation between communities based on self-sacrifice needed the mediator to have moral authority over all participants of the conflict. Jinnah thought that Gandhi had lost that moral authority, given his deep entrenchment in the Congress party. Gandhi's Congress project, for Jinnah, was synonymous with the erasure of a distinct Muslim way of life in India:

> You think my speech at Lucknow is a declaration of war. It is purely in self-defence. Kindly read it again and try and understand it. Evidently, you have not been following the course of events of the last twelve months. As to reserving you as a 'bridge' and 'peacemaker', don't you think your complete silence for all these months has identified you with the Congress leadership although I know that you are not even a four-anna member of that body?[81]

[78] *The Collected Works of Mahatma Gandhi, VXXII (July 1937–February 1938)*, 353.

[79] Faisal Devji, *The Impossible Indian: Gandhi and the Temptation of Violence* (London: Hurst & Company, 2012), 7.

[80] Dieter Conrad, *Gandhi Und Der Begriff Des Politischen: Staat, Religion Und Gewalt* (Paderborn: Wilhelm Fink Verlag, 2006), 15–36.

[81] Jinnah to Gandhi, 5 November 1938, in *The Collected Works of Mahatma Gandhi, VXXII (July 1937–February 1938)*, 494.

Jinnah is abstracting the contractual—in this case, Gandhi's contractual commitment as a registered member of the Congress party—from what he considers to be the real: Gandhi's close association with the Congress leadership and his heavy reliance on Hindu symbolism.

For Jinnah, the position of a mediator could not be honoured through a mere internalization of violence, as Gandhi had proposed. Antagonistic forces that underpinned conflict, if based on an existential threat, required non-legal forms of interaction. Violence was the primary space through which Gandhi and Jinnah could articulate their political visions. Jinnah attempted to capture violence based on self-defence against a corrupt legal order. Gandhi went further to detach violence entirely from the material world and transformed it into a purely moral language of restraint. There is something profoundly utopian in both visions. Indian social realities consisted of a highly exclusionary social order, where birth and caste largely determined one's place within the political system. This physical and psychological violence implicit in the socio-theological order of India was exclusionary at its essence. Its ultimate aim was to uphold a hierarchy of a particular cosmological order, be it a colonial invention or otherwise. Against this system, Gandhi and Jinnah opened up new possibilities of violence that were profoundly inclusive, or even democratic, for it was here that communities could establish fraternities in ways that were otherwise stigmatized or prohibited. In a sense, both thinkers sedated the pressing question of the Indian social. Instead, they offered radical counter-geographies, where new forms of violence could institute more egalitarian forms of participation.

Lahore Resolution

The road to the Lahore resolution of March 1940 was paved with blood. On 3 September 1939 the Viceroy of India, Victor Linlithgow, had declared that India was entering World War II on the side of the Allied Forces.[82] Not for 'selfish aims', as Linlithgow stressed, but only because 'civilisation itself was threatened'. The 'future of humanity, principles of international justice, democracy and international morality' stood at the

[82] 'Britain Declares War on Germany', *The Times of India*, 4 September 1939.

brink of losing its 'spiritual force'. India could 'not allow the heritage of humanity to be dissipated without challenge'.[83]

After lengthy deliberations in the newly founded War Emergency Committee, the Congress announced on 22 October 1939 that it would resign from all governmental responsibility.[84] As Nehru put it, rather bluntly, the Congress policy was against both fascism and German aggression; however, to prevent any democratic principles from being demolished, India first 'must have a democracy to defend'.[85]

Nehru thought that collective retreat would strengthen national sentiments in favour of the Congress. As they had abandoned power in favour of duty and principles, Gandhi was warier of the potential ramifications of a sudden exit from the national political framework. To be clear, Gandhi still thought a retreat was the only way to 'show the hollowness of autonomy' Indian representatives possessed.[86] Another question that war pressed upon Gandhi was how to uphold the principles of pacifism in the face of a world war unprecedented in its scale of violent atrocities. Gandhi suggested confronting Germany with 'non-violent weapons'. According to Gandhi, Hitler would not be able to conduct the inhumane task to 'devastate seven hundred thousand non-violent villages', without becoming 'non-violent in the process' himself.[87]

What made non-violence possible for Gandhi, who has often been read as a thinker of the post-atomic age—where the extinction of humanity as a whole through violence became a concrete reality, and non-violence became a plausible position from which to encounter the human predicament—[88]was its capacity to absorb and transform violence through practices of sacrifice. This sacrifice transcended utilitarian calculation of human costs or suffering. If there were no choice left but to adhere to non-violence, as is the case in any game-theoretical analysis of nuclear

[83] 'India's Part', *The Times of India*, 6 September 1939.

[84] This was moved as a Resolution of the Working Committee in Wardha on 22 October 1939: 'Serious Step By Congress: Cabinets to Resign', *The Times of India*, 23 October 1939; Nripendra Nath Mitra, ed., *The Annual Register, July–December 1939, Vol. II* (Calcutta: The Annual Register Office, 1941), 242–260.

[85] 'Indian Congress and War: Mr. Nehru's Message', *The Times of India*, 26 September 1939.

[86] *Harijan*, 11 November 1939 cited in *The Collected Works of Mahatma Gandhi, LXXVII (October 1939–February 1940)* (New Delhi: Publications Division Government of India, 1999), 94.

[87] *Harijan*, 4 November 1939, Ibid., 63.

[88] Conrad, *Gandhi Und Der Begriff Des Politischen: Staat, Religion Und Gewalt*.

scenarios, it would hollow out the very act of sacrifice and in this way render the entire political practice redundant. Gandhi reiterated this conviction that the war was not a threat to humanity as a whole, in an article published in his journal, the *Harijan*, on 4 November 1939, where he argued that this war could quite frankly not be 'a war to the finish'.[89]

Gandhi acknowledged that any calls to non-violent civil disobedience, which could potentially assert moral superiority over the colonial government and the Axis powers alike, would necessarily lead to more violence, particularly from the ranks of Congressmen themselves.[90] At the same time participation in the colonial political complex during the war, either through ministerial portfolios or as Linlithgow later offered, through special seats in his Executive Council, would have signified implicit support of the ongoing carnage.[91] In any case, Gandhi had been suspicious of contractual arrangements of 'big people' as meaningful tools to establish a relationship between communities, as such 'pacts' did not, he reminded his readers on 24 December 1939 in the *Harijan*, 'affect men in the street, the ground-down millions'.

Like Jinnah, Gandhi was concerned with the fundamental question of 'cultivating fellowships'. However, he sought to do so not based on 'fear' and respect, to use Jinnah's political vocabulary, but as 'natural' alliances of a blood brotherhood, which would dissolve all communitarian solidarities into a national one.[92] After all, Gandhi firmly believed that sectarian tensions in India were only possible from the background that all communities had essentially descended from one body, and could thus—like Hitler from humanity—never cut themselves off entirely from their Hindu brethren:

[89] *Harijan*, 4 November 1939, cited in *The Collected Works of Mahatma Gandhi, LXXVII (October 1939–February 1940)*, 63.

[90] For instance, in an issue of the *Harijan* on 20 January 1940, Gandhi writes: 'I know that no plan that I may put before the country will admit unregulated and sporadic strikes, because that must lead to violence and therefore automatic suspension of the non-violent struggle. It would amount to my dismissal.' He could not 'embark on a struggle which I know beforehand is likely to end in disaster'. Ibid., 230.

[91] Linlithgow to Jinnah, 2 November 1939, cited in Ahmad, *Quaid-I-Azam Mohammad Ali Jinnah, The Nation's Voice: Towards Consolidation, Speeches and Statements March 1935–March 1940*, 407.

[92] *Harijan*, 30 December 1939, cited in *The Collected Works of Mahatma Gandhi, LXXVII (October 1939–February 1940)*, 161.

> I hope that Quaid-e-Azam Jinnah's opinion [of Indian being occupied by two nations, Hindus and Muslim] is a temporary phase in the history of the Muslim League. Muslims of the different provinces can never cut themselves away from their Hindu and Christian brethren. Both Muslims and Christians are converts from Hinduism or are descendants of converts. They do not cease to belong to their provinces because of [a] change of faith. Englishmen who become converts to Islam do not change their nationality.[93]

Jinnah was not desirous of a power-sharing agreement with the British.[94] However, he was acutely aware that the ongoing war would bracket the Muslim question. Supporting the British would be regarded as a betrayal of independence. At the same time, an alliance with the Congress would endorse the very majoritarianism that fuelled Germany's expansionist fantasies of *Lebensraum*.[95] The moral rhetoric of the war, that the British fought in defence of democracy and freedom seemed absurd to Jinnah. So did the Congress' demands for an immediate withdrawal of the British, the establishment of a constituent assembly with the 'widest possible franchise', and the resolution of the global military conflict without resorting to violence.

In an exchange of letters with the Viceroy, Jinnah laid out that a new constitution had to replace the Government of India Act of 1935. This new constitution should neither 'be enforced by His Majesty's government' nor 'enacted by Parliament', without 'the approval and consent of the Mussalmans of India'.[96] In response to the assurances of Linlithgow to trust the government in weighing properly 'the importance of the contentment of the Muslim community' regarding 'the stability and success of any constitutional development of India', Jinnah stated:[97]

[93] *Harijan*, 23 January 1940, cited in Ibid., 247.

[94] Ambedkar highlights this point in his somewhat antagonistic work on the Pakistan movement: B. R. Ambedkar, *Pakistan or the Partition of India* (Bombay: Thacker & Co., 1946), 352.

[95] Jinnah's statement regarding the situation at the Working Committee Meeting in New Delhi on 22 October 1939, cited in Mitra, *The Annual Register, July–December 1939, Vol. II*, 352.

[96] Jinnah to Linlithgow, 23 February 1940, cited in Peerzada, *Leaders' Correspondence with Mr. Jinnah*, 10.

[97] Linlithgow to Jinnah, 23 December 1939, cited in Ibid., 6.

> But I regret to say, this does not meet the point raised by the Muslim League, because it still leaves the position of the ninety million Mussalmans of India only in the region of consultation and counsel, and vests the *final decision* (emphasis mine) in the hands of Great Britain to determine the fate and future of Muslim India. We regret that we cannot accept this position.[98]

For Jinnah, the critical aspect of the drafting of a constitution lay not in its technical specificities of figuring out the concrete ways in which concessions are made—though they were undoubtedly part of his reasoning—but rather in the final decision of approving or rejecting it.

The election of Maulana Azad to the Congress presidency in 1940 reverted the issue of the war to the national. Earlier, a Hindu-dominated Working Committee under the former President, Rajendra Prasad, had given much tailwind to the League. Now the Working Committee was run by a Muslim. Jinnah now had to deal with another Muslim leader as the primary representative of the other All India Party. He was irritated when Azad asked whether the League was willing to enter into a dialogue for the establishment of a 'composite' government, which was 'not based on the two-nation scheme':[99]

> Your telegram cannot reciprocate confidence. I refuse to discuss with you, by correspondence or otherwise, as you have completely forfeited the confidence of Muslim India. Can't you realise you are made a Muslim 'show-boy' Congress President to give it colour that it is national and deceive foreign countries. You represent neither Muslims nor Hindus. The Congress is a Hindu body. If you have any self-respect resign at once. You have done your worst against the League so far. You know you have hopelessly failed. Give it up.[100]

Azad and Jinnah both supported British war efforts against fascist forces, though both viewed them as just more extreme forms of imperialist gestures. However, while Azad could not do so openly from the Congress

[98] Jinnah to Linlithgow, 23 February 1940, cited in Ibid., 10.
[99] Telegram Azad to Jinnah, 12 July 1940, in Ibid., 213.
[100] Telegram Jinnah to Azad, 12 July 1940, in Ibid.

platform, as he noted in his autobiography, Jinnah fashioned himself as a leader who understood that India's independence was not achievable through non-violent means alone.[101] Minorities, in particular, had experienced systematic discrimination in the little over two years under Congress rule, even if these were not direct orders from the Congress High Command, as Nehru repeatedly insisted. The resignation of their ministries was, perhaps rightly, observed as a moment of celebration for minorities.[102] For this occasion, Jinnah even shared a platform with the Dalit leader Bhimrao Ramji Ambedkar during the *Yaum-e-Nijaat* (Day of Deliverance) celebrations on 22 December 1939.

Nonetheless, Jinnah remained reluctant to equate Muslim marginalization under the short-lived Congress rule with that of other minorities. Significantly, it was not a question of mere suffering that could miraculously bind minorities together against the 'Fascist Grand Council', as he repeatedly referred to the Congress in those years, but their will to fight for survival. Jinnah doubted that Dalit had this will to fight.[103]

Jinnah's fear of Muslims being turned into untouchables in a united India under Hindu rule turned a convenient alliance into a political impossibility. In this way, the very presence of the 'depressed classes in India', who had 'been refused all elementary rights', served as a constant reminder of what Muslims could one day become if they did not stand up for themselves.[104] It was on icy terms, then, that Jinnah responded to Gandhi when he congratulated Jinnah for understanding the real significance and meaning of national leadership, as he now represented more than just his community:

> Your appeal to amalgamate all the parties opposed to the Congress at once gives your movement a national character. If you succeed you will

[101] Azad writes 'non-violence was a matter of policy, not of creed. My view was that Indians had the right to take to the sword if they had no other alternative. It would, however, be nobler to achieve independence through peaceful methods', in Maulana Abdul Kalam Azad, *India Wins Freedom: An Autobiographical Narrative* (Hyderabad: Orient Longman Limited, 1988), 34.

[102] In 1938 the League instituted a committee, the Pirpur committee, which drafted a report that collected the major violations that took place during Congress rule. Largely these violations concern favouritism of Hindus over Muslims. The report is reprinted in full in J. C. Johari, ed., *Voices of Indian Freedom Movement, Volume X Part 2* (New Delhi: Akashdeep Publishing House, 1993), 354–389.

[103] 'Congress-League Dispute: Mr. Jinnah on Plan for Arbitration', *The Times of India*, 28 October 1939.

[104] 'Take Minorities With You'.

> free the country from communal incubus, and in my humble opinion give a lead to the Muslims and others for which you will deserve the gratitude not only of the Muslims but of all the other communities.[105]

The issue for Jinnah was, however, not that of rising to a central leadership role and of looking after the particular political interests of communities in a paternalistic way, but rather of crushing the myth of the Indian nation itself, as he made clear in his response to Gandhi:

> It is true that many non-Congress Hindus expressed their sympathy with the Deliverance Day in justice to our cause, so also the leaders of the Justice party and the Scheduled Castes, and the Parsis who had suffered. But I am afraid that the meaning which you have tried to give to this alignment shows that you have not the true significance of it. It was partly a case of 'adversity bringing strange bed-fellows together', and partly because common interest may lead Muslims and minorities to combine. I have no illusions in the matter, and let me say again that India is not a nation, nor a country. It is a sub-continent composed of nationalities, Hindus and Muslims being the two major nations.[106]

Jinnah was not particularly keen to represent the interests of other communities at the centre or to become an influential spokesman, as Jalal has famously suggested. Instead, he was adamant that the idea of the Indian nation had always existed in fragments. Politicians had to acknowledge this for any possibility of a political arrangement to arise. In this sense, a tremendous national alliance between the League and other minorities that Gandhi had hopefully envisioned as 'non-Congress' or even 'anti-Congress', was rendered futile precisely because Jinnah refused to become a 'stake-holder' as a spokesman at the centre.[107] That India could not win her freedom through self-sacrificial practices like 'khaddar, ahimsa and spinning', but required the destruction of the idea of unity itself to give political reality to the participants in this struggle, was the crucial conceptual point of departure for Jinnah. We may ascribe this resistance to

[105] Gandhi to Jinnah, 16 January 1940, cited in Peerzada, *Leaders' Correspondence with Mr. Jinnah*, 51.
[106] Jinnah to Gandhi, 21 January 1940, cited in Ibid., 55.
[107] Jinnah to Gandhi, 21 January 1940, cited in Ibid., 56.

the legal order that had emerged as violent or radical. But what is notable about the emergence of a political alternative in the form of two nation-states was its conservative proclivity to nationalism. Jinnah conceived of alternative legal spaces as territorially bound, so the splintering of landscapes, villages, and communities followed on from the legal concept of the Muslim nation-state that he entertained and advocated.

On 13 November 1939, during a speech given after the Eid-al-Adha sermon in Bombay, Jinnah reiterated this point: the internalization of violence, through the 'deeds' that man 'accomplished only within himself', was nothing in the face of 'strength for action', as it was only through 'action' that a singular human being could rise to the 'society of man'.[108] Jinnah advised his followers to consult a book, *On Compromise*, written by the former Secretary of State for India, John Morley. In his political role, Morley had helped institute the Indian Councils Act of 1909, in the so-called Morley-Minto Reforms, which granted some limited franchise to Indians based on separate electorates:

> I remember John Morley's book on 'Compromise'. I usually dislike recommending books to young people, but I think you all ought to read that book not only once but over and over again. There is a good chapter in it on the limits of compromise, and the lesson it teaches regarding the pursuit of truth and the limitations on our actions in practice are worth pondering over.[109]

Often vilified by Congress leaders for having been responsible for creating a rift between Hindus and Muslims—on the imperial principle of divide and rule—[110] Morley, in his 1874 work, sets out to explore the tension arising from inherent principles and opinions, mostly religious, in

[108] 'Picturesque Id Prayers in Bombay', *The Times of India*, 14 November 1939; Jamil-ud-Din Ahmad, ed., *Some Recent Speeches and Writings of Mr. Jinnah* (Lahore: Sh. Muhammad Ashraf, 1942), 92.

[109] Ibid., 95.

[110] For instance, Rajendra Prasad depicted the outcome of Morley's contribution to the Indian political scene in the following way: 'In British circles both here and in England this was regarded as a great service by the Viceroy as it was nothing less than keeping back the Mussalmans from joining the ranks of the seditionists. Thus the seed was sown which has now grown into a tree with deep roots and wide-spread branches, to the great detriment of India and the lasting benefit of Britain which has succeeded in thus blocking the way to Indian Independence.' Rajendra Prasad, *India Divided* (Bombay: Hind Kitabs Publishers, 1947), 165.

the relationship between individuals and communities. The points of interest for Jinnah, as outlined earlier in the chapter, relate to the limits of political compromise, when existential survival was at stake, and it is perhaps this passage of Morley's work that resonated most in Jinnah's thinking:

> Again, supposing that the enlightened caste were to consent to abandon the common people to what are assumed to be lower and narrower forms of truth,—which is after all little more than a fine phrase for forms of falsehood,—what can be more futile than to suppose that such a compromise will be listened to for a single moment by a caste whose first principle is that they are the possessors and ministers, not of an inferior or superior form of truth, but of the very truth itself, absolute, final, complete, divinely sent, infallibly interpreted? The disciples of the relative may afford to compromise. The disciples of the absolute, never.[111]

The hope of finding common legal ground that could adequately capture and dissolve antagonisms through negotiations, pacts, and contracts, for Jinnah, was nothing but wishful thinking. The absolute truth that he asserted to the notion of survival, emptied of any historical or moral baggage, accordingly remained the highest principle in his political thinking.

It is with this spirit that Jinnah addressed Muslim League members at a party hosted by the Anjuman-e-Islamia in Shimla on 13 August 1938. After outlining the ramifications that a 'planting' of British legal and democratic frameworks had in India, particularly with the institution of Congress-led governments after 1937, Jinnah asserted that the preparation for the moment of emergency was crucial if Indian Muslims wanted to survive in the changed political climate:

> I want you to organise yourselves and prepare yourselves to be ready for defence and if necessary to resist any encroachment upon our rights and to play your part in any emergency that may arise at any time.[112]

[111] John Morley, *On Compromise* (London: MacMillan And Co., 1901), 56f.

[112] Deccan Times, 28 August 1938, as cited in Ahmad, *Quaid-I-Azam Mohammad Ali Jinnah, The Nation's Voice: Towards Consolidation, Speeches and Statements March 1935–March 1940*, 268.

It was only through provoking a legal crisis, Jinnah explained, that the Hindu majority could be 'brought to its senses'. Jinnah saw force as the best strategy to change the democratic order, which he thought might be 'worthwhile in England' as it 'suited the genius of its people', but was nothing but a 'travesty' in the Indian context:

> I do not know how far this machine [liberal democracy] which is now planted here, when every other country in Europe has given it up, will succeed. I say to you my friends come on one platform stand under one flag.[113]

Yet, it was not 'fanaticism', 'communalism', or 'toadyism', as Jinnah analysed himself, that had brought him to this position of developing this political rhetoric of survival. Rather, it was the fundamental struggle for political recognition that did not allow him to 'subordinate' or become 'a slave to anybody else'.[114]

On 22 February 1940, at a speech delivered on the occasion of unveiling a portrait of a prominent leader of the Khilafat movement, the late Maulana Shaukat Ali, Jinnah articulated his strategy for survival. As a first step, this required Muslims to 'organise themselves' into 'one political unit', and prepare themselves for the 'marching order' when they would have to 'shoot down those who betray' them 'at that time'.[115] The demand for an organization that Jinnah repeatedly raised was, however, sits at odds with a political lobby group. Instead, as he explained at a rally given at the Muslim Union in Aligarh on 6 March 1940, he sought the formation of Muslims as a 'solid block of steel', to establish the strongest 'political army that India has ever seen'.[116] At this critical juncture Jinnah acknowledged that regardless of how far he would push the rhetoric of minority rights or constitutional safeguards at the centre, it would never equip India's Muslims with the ability for bare survival. In an article written on the constitutional future of India for the *Time and Tide* on 9 March 1940, Jinnah made clear that Muslims had to be re-conceptualized as a distinct nation. They were not a cultural minority. Their ways of

[113] Ibid.
[114] Ibid., 270.
[115] Ibid., 464.
[116] Ibid., 472.

conducting social relationships and, by extension, political fraternities were fundamentally different from the 'caste-ridden' Hindu majority. If brought together into the same democratic order, Hindus would create a 'vertical division' in society with Muslims at the bottom of the socio-political pool:

> Hinduism and Islam for both these religions are definite social codes which govern not so much man's relationship with God, as man's relation with his neighbour. They govern not only his law and culture, but every aspect of his social life, and such religions, essentially exclusive, completely preclude that merging of identity and unity of thought on which Western democracy is based, and inevitably bring about vertical rather than the horizontal divisions democracy envisages.[117]

Jinnah linked the rhetoric of survival to the question of the Indian social order and the systemic exclusion of untouchables. If untouchables had not managed to disturb the Hindu cosmological order in thousands of years, or at least from the time of the colonial intervention, Muslims too, Jinnah feared, could only be incorporated into the social body as an anomaly.

On 19 March 1940, two days before the 27th session of the All India Muslim League,[118] a military procession of Inayatullah Mashriqi's Khaksars clashed with local police forces. These clashes caused the death of twenty nine Khaksars and two police officers.[119] The prime minister of the Punjab, Sir Sikandar Hyat Khan, accused the Khaksars of having established a 'subversive organisation' with connections to 'enemies of this country' and disturbed the 'safety and tranquillity of the province'.[120] But the general Muslim sentiments, judging from the audible slogan 'Khaksar Zindabad' (Long Live the Khaksar) chanted at the Muslim League convention and Jinnah's remarks that the shooting was a plot of the League's

[117] Muhammad Ali Jinnah, 'The Constitutional Future of India', *Time and Tide* (London, March 1940).

[118] 'Bloody Reception to Qaid-I-Azam: Will the Moral Be Lost on Us?', *The Light*, 24 March 1940.

[119] '25 Killed in Lahore Khaksar Clash', *The Times of India*, 20 March 1940.

[120] 'Punjab Premier on Khaksars: Real Connection Between Khaksars and Enemy Countries', *The Light*, 16 June 1940.

enemies to 'mar the session'—was mostly sympathetic.[121] Thus, the Lahori newspaper *The Light* evocatively came to call the shooting a 'bloody reception' to Jinnah. It also substantiated Jinnah's view that Indian Muslims both the British and the Congress wanted Muslims to give up the idea of a Muslim nation-state, even though it was the 'only sound' proposal for achieving 'peace'.[122]

Jinnah made clear in his presidential address, which formed the basis of what is popularly known as the Pakistan Resolution, that Muslims had to create and depend solely on their 'inherent strength' to protect themselves from the social and political absorption into a hostile and majoritarian political order.[123] This struggle transcended gender binaries, and Jinnah urged that women should also join the ranks of the League and 'participate in our struggle of life and death'. This existential struggle for survival had already made itself manifest in the political condition of India, Jinnah suggested:

> After the war was declared, the Viceroy naturally wanted help from the Muslim League. It was only then that he realised that the Muslim League was a power. For it will be remembered that up to the time of the declaration of war, the Viceroy never thought of me but of Gandhi and Gandhi alone. I have been the leader of an important party in the Legislature for a considerable time, larger than the one I have the honour to lead at present, the present Muslim League Party in the Central Legislature. Yet the Viceroy never thought of me. Therefore, when I got this invitation from the Viceroy along with Mr. Gandhi, I wondered within myself why I was so suddenly promoted, and then I concluded that the answer was the 'All-India Muslim League' whose President I happen to be.[124]

It was the Viceroy's declaration to enter the war against the Axis powers, according to Jinnah, that ultimately led to a real recognition of Indian Muslims as a 'political force'.[125] However, this recognition did not occur

[121] 'Qaid-I-Azam's Illuminating Survey: Independent Homeland for Islam', *The Light*, 1 April 1940.
[122] 'Bloody Reception to Qaid-I-Azam: Will the Moral Be Lost on Us?'
[123] Muhammad Ali Jinnah's Presidential Address at the All-India Muslim League, Lahore Session, March 1940, as reprinted in Ahmad, *Some Recent Speeches and Writings of Mr. Jinnah*, 142.
[124] Ibid., 139.
[125] Ibid.

as a mere extension of his representative role within the state. Rather, it was the 'political awakening' of Indian Muslims—their will to live—that had propelled him to this position. It was crucial, Jinnah emphasized in his speech, to 'trust nobody', and to depend solely on one's own 'inherent strength', which in turbulent times such as these was 'the only safeguard, and the best safeguard'.[126] However, while the language of the law had ceased to carry any meaning for national pacts and treatises, it retained its importance in an international order, consisting of different nation-states. In the sphere of international law, Jinnah reasoned, 'international pacts' could perhaps still lead to 'goodwill' and 'harmony', as they were not, like such settlements on the national stage, devoid of any substantial backing through physical force.[127] The division of India into 'autonomous sovereign national states' would further allow, Jinnah reasoned in an almost Arendtian manner, the safeguarding of the interests of the sizeable Muslim minority that would stay behind in 'Hindu India'. Through 'reciprocal arrangements and adjustments', Jinnah would secure their political rights in a newly constructed Muslim homeland.[128]

Conclusion

This chapter concludes that Jinnah's legal thought in the 1930s was centrally concerned with the limitations of legal compromise within national constellations—and with the envisioning of ways through which the crushing cycle of legal violence could be escaped and interrupted. This chapter argued that only the disruption of the law, which, to be sure, had provided much of the conceptual registers for the national conversation, allowed Jinnah to frame territoriality as a political issue. Departing from the conventional view, which constructs Jinnah as a committed constitutionalist, this chapter has shown how Jinnah worked at the limits of the law and was altogether willing to depart from it. The solution to the communal issue in India could not be settled through legal contracts or constitutional safeguards but had to be deliberated through the

[126] Ibid., 141.
[127] Ibid., 153.
[128] Ibid., 152.

representation of religion in the political arena—be it at the cost of the outright embrace of violence.

This chapter supports the argument of this book that the idea of Pakistan—a separate Muslim nation-state on the subcontinent—was conceived between the lines of legal language, text, and category. However, ultimately it still relied on those categories to articulate itself. The relationship between law, violence, and the Muslim political scene in pre-partition India takes the form of a dialectic.[129] In this context, legal categories shaped political subjectivities, and then moved well beyond the sphere of the law, as Jinnah's political thought shows. Muslim later succumbed to the specific legal forms of violence that were so characteristic of twentieth-century politics.

[129] I borrow the theoretical notion of 'Dialektik' from Fichte, as set out in Johann Gottlieb Fichte, *Grundriß Des Eigenthümlichen Der Wissenschaftslehre in Rücksicht Auf Das Theoretische Vermögen* (Jena und Leipzig: Christian Ernst Gabler, 1795).

5

Muhammad Iqbal: Combative Constitutionalism

This chapter sets out to re-examine the political and legal thought of the poet, philosopher, and reluctant statesman Muhammad Iqbal, with an emphasis on the decade before his death in 1938.[1] Iqbal, who spent most of his life in Lahore, was actively involved in the local agitations examined in the early parts of this book. As we have seen, he actively intervened on behalf of Ilmuddin's funeral arrangements and headed the commission for reconciliation in the Shahidganj dispute. Moreover, however, he thought about the possibilities and limits of establishing Muslim solidarity. Chapter 5 will thus highlight how Iqbal's philosophical, legal, and political thought ultimately manifested itself in a single issue: whether a small messianic sect from Punjab, the Ahmadis, could stand in allegiance to this imagined Muslim fraternity. This chapter will look closely at selfhood, solidarity, and constitutional republicanism and explore how Iqbal picked up a local dispute, in this case, the Ahmadiyya question, and connected it to the greater narrative of the national.

Several myths have clouded Iqbal's thought in this period. This chapter seeks to debunk them. Some scholars argue that Iqbal underwent a decisive intellectual transformation during his stay in Europe. This transformation, it is said, radically changed his political outlook and might have fuelled his separatist tendencies to envision a distinct homeland for Indian Muslims.[2] Relatedly, other scholars have argued that Iqbal's political vision was an outcome of his academic training. After acquainting himself with 'local' Sufi thought, and his university years in Lahore, Cambridge, and Heidelberg, Iqbal ascribed to cosmopolitanism. He

[1] For biographical details, see Annemarie Schimmel, *Gabriel's Wing: A Study into the Religious Ideas of Sir Muhammad Iqbal* (Leiden: Brill, 1963).

[2] Parveen Feroze Hassan, *The Political Philosophy of Iqbal* (Lahore: Publishers United LTD, 1970), 24–30.

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believed, these scholars argue, in a global Muslim community or *ummah* that makes his support for Muslim separation very unlikely.[3]

Another aspect that has dominated scholarship on Iqbal's is his stance towards colonial rule. Most scholars have framed his relationship with the colonial state through the categories of support and opposition. One extreme position argues that Iqbal conceded to the civilizational mission of the colonial state. Though Iqbal distrusted the claim that only colonialism could bring modernity, they argue, he was still in awe of the material progress he witnessed in Europe.[4] Others have constructed him as a subversive anti-colonial figure, who was anticipating the appropriate time to strike back against the Empire. In these accounts, Iqbal seeks to destabilize the contractual relationships on which the colonial state rested.[5] Iqbal's celebration of pan-Islamism, his frequent use of religio-cultural symbols that effortlessly traversed religious binaries, and his outright dismissal of nationalism have complicated the idea to see Iqbal as a proto Muslim nationalist.[6]

This chapter revises these contentions. It will do so by examining Iqbal's central political concerns regarding Muslims in late-colonial India: solidarity, constitutional republicanism, and political authority. This chapter argues that there is no conceptual tension inherent in associating Iqbal's constitutional doctrines more directly with the establishment of a sovereign state for Indian Muslims. Iqbal's critique of nation-states, with its underlying ideological force of nationalism that came in its wake, or, as some may have it, instituted such states, remained limited to what he perceived to be its disastrous European articulations. For Iqbal, European countries were but inadequate attempts to re-establish a universal ethical order that the Christian church had once offered to them but of which

[3] Iqbal's politics, from this perspective, were only 'made possible through the tension between separatist nationalism and pan-Islamism': Javed Majeed, 'Geographies of Subjectivity, Pan-Islam and Muslim Separatism: Muhammad Iqbal and Selfhood', *Modern Intellectual History* 4, no. 1 (8 March 2007): 146; Inayatullah Baloch, 'Islamic Universalism, the Caliphate and Muhammad Iqbal', in *Revisioning Iqbal as a Poet & Muslim Political Thinker*, ed. Gita Dharmpal-Frick, Ali Usman Qasmi, and Karia Rostetter (Heidelberg: Draupadi Verlag, 2010).

[4] Francis Robinson, ed., *The Islamic World in the Age of Western Dominance*, vol. 5 (Cambridge: Cambridge University Press, 2011), 12.

[5] Iqbal Singh Sevea, *The Political Philosophy of Muhammad Iqbal: Islam and Nationalism in Late Colonial India* (Cambridge: Cambridge University Press, 2012); Ashis Nandy, *The Intimate Enemy: Loss and Recovery of Self under Colonialism* (New Delhi: Oxford University Press, 1983).

[6] See only: Sharif al Mujahid, 'Muslim Nationalism: Iqbal's Synthesis of Pan-Islamism and Nationalism', *American Journal of Islamic Social Sciences* 2, no. 1 (1985): 29–41; Faisal Devji, *Muslim Zion: Pakistan as a Political Idea* (London: C. Hurst & Co. Ltd., 2013), 110.

Europe had become deprived, counting Protestantism, liberalism, and communism as significant factors in this long process of disintegration. The particularities of European nationalism, with their differences centred on language, ethnicity, and culture, for Iqbal, made lasting stability in a non-imperial transnational context impossible.[7]

For Iqbal, concepts like human dignity, the rights of man, and other notions could not compete with Divine principles. Such human-made concepts could never acquire any meaningful historical permanence. It is in opposition to these ephemeral principles that Iqbal suggested a distinct form of Muslim republicanism that allowed for the national and the transnational to come together unburdened from what he identified as the disintegrating forces of the European experience while retaining democracy in both form and spirit. The constitutional orders of these Islamic republics that Iqbal proposed merely had to reflect two universal principles deduced from Islam: the tenets of *tauhid* (unity of God) and *khatam-un-nabiyyen* (the finality of Prophethood). This chapter explores how Iqbal promoted the implementation of these principles within the colonial legal order and how he adapted them for the drafting of a constitutional framework for Muslim institutional bodies. This chapter looks closely at how Iqbal's vision turned profoundly antagonistic concerning groups that could potentially violate its underlying sacred values and how such deviations, Iqbal feared, could lead to the extinction of Islam in India.

Despite Iqbal's familiarity with Western thought, this chapter argues that his political thought remained profoundly rooted in North India. This rootedness becomes particularly visible in his fight for the political rights of Kashmiri Muslims and the expulsion of Ahmadis from being recognized as Muslim through both legal and political means.[8] As

[7] The debate about whether a brotherhood of (Enlightenment) Man, united on whatever basis, ultimately leads to a single world state has received considerable scholarly attention, not least in recent interpretations of Immanuel Kant's short treatise 'Zum Ewigen Frieden': Immanuel Kant, *Zum Ewigen Frieden: Ein Philosophischer Entwurf* (Leipzig: Der Insel Verlag zu Leipzig, 1917).

[8] This idea is not a new one. The local itself is produced, as Arjun Appadurai has pointed out, through various practices that institute locality and tends already to contain a profoundly global dimension. The tension between local and global in the history of ideas can hardly be understood in merely material/territorial terms. Rather, the global and the local are better conceptualized as abstractions, which relate to each other similarly to the way in which the Hegelian concepts of the particular do to the universal: Arjun Appadurai, *Modernity at Large: Cultural Dimensions of Globalization* (Minneapolis: University of Minnesota Press, 1998); Shruti Kapila, 'Global Intellectual History and the Indian Political', in *Rethinking Modern European Intellectual History*, ed. Darrin M. McMahon and Samuel Moyn (Oxford: Oxford University Press, 2014),

opposed to tracing the morphology of some set political ideas across time and space, this chapter is concerned with embedding Iqbal's political thought within its concrete historical context.[9]

Transnationalism Reconsidered

In historical writings, the intellectual genealogy of Iqbal, no different from similar reconstructions of Mahatma Gandhi and Rabindranath Tagore, seems to necessitate the inclusion of an exhaustive list of Western philosophers as potential influences. For Iqbal, these philosophers of the past have conventionally come to include Friedrich Nietzsche, Goethe, Bergson, McTaggart, Kant, and more recently, Bradley, Renan, and Einstein.[10] Iqbal himself willingly provided this carefully crafted list of influences. Partly he did this to foster his image as a poet-philosopher, a term that he repeatedly used himself. Iqbal wanted to stand between the material West and the spiritual East, as one can learn from his notes reprinted in *Stray Reflections*:

> I confess I owe a great deal to Hegel, Goethe, Mirza Ghalib, Mirza Abdul Qadir Bedil and Wordsworth. The first two led me into the 'inside' of things; the third and the fourth taught me how to remain oriental in spirit and expression after having assimilated foreign ideals of poetry, and the last saved me from atheism in my student days.[11]

Such statements have led scholars to generously overlook that most references to European philosophers remain largely indicative. Instead of

253–274; Andrew Arsan, 'Under the Influence? Translations and Transgressions in Late Ottoman Imperial Thought', *Modern Intellectual History* 10, no. 2 (11 July 2013): 375–397.

[9] The tracing of 'unit-ideas', almost like ideal types, across time and space, as proposed by Arthur Lovejoy—or even Foucault in *The Order of Things*—has somewhat grown out of fashion. The conceptual problems and methodological issues inherent in these approaches have received an exhaustive review in Quentin Skinner's work. See only: Quentin Skinner, *Visions of Politics, Volume I: Regarding Method* (Cambridge: Cambridge University Press, 2002), 69–75.

[10] See only: Hafeez Malik, *Iqbal: Poet-Philosopher of Pakistan* (Lahore: Iqbal Academy Pakistan, 2005), 56.

[11] Javid Iqbal and Khurram Ali Shafique, eds., *Stray Reflections: The Private Notebook of Muhammad Iqbal* (Lahore: Iqbal Academy Pakistan, 2006), 53.

opening any dialectic conversation with different ideological formations, Iqbal seems to satisfy himself with merely pointing towards them, so he can quickly depart from their recommended conceptual visions. In evoking these philosophers, Iqbal was simply signalling his entrance into a global interaction. Their careful and intentional inclusion was but a greeting call to the intellectual gatekeepers of this debate.[12]

Indeed, one also finds countless lengthier engagements with Western philosophers in Iqbal's writings; his *Reconstruction of Religious Thought in Islam,* for instance, is scattered with citations and summaries of European political thought. However, and perhaps more importantly, it is Iqbal's critique and outright departure from these antiqued European templates that this chapter identifies as its subject of historical analysis.

On 31 March 1962, Sir Zafrullah Khan shared his impressions of Muhammad Iqbal. Khan knew Iqbal intimately, first as a teacher at Government College Lahore and later as a colleague in representing the cause of Indian Muslims during the second and third Round Table Conferences in 1931 and 1932. He was impressed with Iqbal lack of 'personal ambition' to climb up the ranks of the colonial system.[13] After all, Iqbal's educational accomplishments and his cultural influence as an established and widely respected poet would have made it easy for him to convert this position into a comfortable life with access to political power and wealth.[14]

In his own right, Khan had undertaken a remarkable administrative career and served as the youngest Muslim delegate to the Viceroy's Executive Council, for a long time the highest cabinet in colonial India.[15] Khan noted that when both men entered the Punjab Legislative Assembly

[12] 'Cosmopolitan Thought Zones' has recently been proposed as a conceptual framework for tracing global genealogies of thought and 'mapping' conversations and movements across national boundaries. Such approaches tend to make extensive use of concepts such as networks, circulations, or the marketplace of ideas and have approached global intellectual history largely with methodological tools better suited to the writing of economic history. As an example of these approaches, see only: Ayesha Jalal, 'Iqbal and Nietzsche: A Transcultural Dialogue', in *Cosmopolitan Thought Zones: South Asia in the Global Circulation of Ideas*, ed. Sugata Bose and Kris Manjapra (New York: Palgrave Macmillan, 2011), 85–96.

[13] Wayne Wilcox and Aislie Embree, *The Reminiscences of Sir Muhammad Zafrulla Khan* (Maple, Ontario: Oriental Publishers, 2004), 18.

[14] For a depiction of the relative poverty in which Iqbal spent his last years, see only: Doris Ahmed, *Iqbal: As I Knew Him* (Lahore: Iqbal Academy Pakistan, 1986), 5–16.

[15] 'New Members of Viceroy's Council: Kunwar J. Prasad and Mr. Zafrullah Khan', *The Times of India*, 11 October 1934.

in 1926, Iqbal as a delegate from Lahore, and Khan from the nearby city of Sialkot, Iqbal's initial excitement to bring about legislative change within a liberal framework of representation was soon exhausted in the lengthy 'procedures through which everything had to pass'. After 'visibly suffering' for some time, Iqbal eventually decided to 'entirely stop' attending the parliamentary sessions.[16]

This resignation from the procedural weight of liberal politics (in a, however bent, colonial representative system) might suggest that such forms of representation, epistemological and empirical, stood at odds with Iqbal's vitalist political principles.[17] Indeed, Iqbal's attempts to transcend the 'disease' of Eastern quietism and to replace it with an assertive Muslim subjectivism, could justly be located at the heart of his conceptual striving. The concept of *khudi* constituted the most visible product of such action-driven thinking.[18] Iqbal's notion of *khudi*—the assertion and irreducibility of individuality, or the ego, in the material and spiritual sphere—has at times been linked to Nietzsche's model of the *Übermensch* (superman), and additionally to the metaphysics of McTaggert's neo-Hegelianism.[19] On 26 January 1921, in an exchange of letters with the Cambridge don Reynold Nicholson, Iqbal responded in the following way when confronted with E. M. Foster's critique that his concept of *khudi* contained little more than an elegant reformulation of Nietzsche's *Übermensch*:

[16] Wilcox and Embree, *The Reminiscences of Sir Muhammad Zafrulla Khan*, 19.

[17] This argument has, for instance, been proposed in Faisal Devji, 'Illiberal Islam', in *Enchantments of Modernity: Empire, Nation, Globalization* (London & New York: Routledge, 2010), 234–263.

[18] *Khudi* could perhaps best be understood as a way of regaining some form of Islamic agency or selfhood within the changed paradigm of colonial modernity. It was principally directed as a critique against the Sufi and mystic notions of *fanaa* (annihilation of the self), which for Iqbal was only an expression of resignation, political decline, and obscure otherworldliness. The act of departing from the Sufi tradition through the promotion of his concept of *khudi* could be read as an outcome of a split mentality that is not unusual for colonized thinkers and has found much theorization in post-colonial literature—from Frantz Fanon's double-consciousness to Bhabha's hybridity: Frantz Fanon, *Black Skin White Masks* (New York: Pluto Press, 1988); Homi Bhabha, *The Location of Culture* (New York: Routledge, 1994).

[19] E. M. Foster, in his review of Iqbal's poem *Asrar-e-Khudi,* is probably the first to have made this connection: 'Like other of his contemporaries he [Iqbal] has been influenced by Nietzsche; he tries to find, in that rather shaky ideal of the Superman, a guide through the intricacy of conduct. His couplets urge us to be hard and live dangerously; tigers, not sheep; we are to beware of those sheep who, fearing our claws, come forward with the doctrine of vegetarianism. (…) The significance of Iqbal is not that he holds [Nietzsche's doctrine], but that he manages to connect it to the Quran.' In E. M. Foster, 'Review: Sheikh Muhammad Iqbal, The Secrets of the Self (Asrar-I-Khudi), Translated by Nicholson', *The Athenaeum* 29 (1920): 803–804.

> Nor does he [E.M. Foster] rightly understand my idea of the Perfect Man, which he confounds with the German thinker's [Nietzsche] Superman. I wrote on the Sufi doctrine of the Perfect Man more than twenty years––long before I had read or heard anything of Nietzsche. This was then published in *The Indian Antiquary* and later, in 1908, formed part of my book on Persian Metaphysics.[20]

For Europeans to understand his concept of *khudi* and the 'descriptions of the ideal man' it entailed, Iqbal advised looking more closely at the Hegelian philosopher John Stuart Mackenzie. Mackenzie, in his *Introduction to Social Philosophy*, had argued that the human condition in the modern age required a radical messianic intervention:[21]

> There can be no ideal society without ideal man: and for the production of these we require not only insight but a motive power; fire as well as light. Perhaps a philosophical understanding of our social problems is not even the chief want of our time. We need prophets as well as teachers (…) Perhaps we want a new Christ (…) It has been well said that the wilderness of the present is in the incessant war by which we are trying to make our way upwards. It is there that the prophet must be. (…) We still look for one who shall show us with the same clearness the presence of the divine in the human.[22]

Iqbal's subsequent critique of Nietzsche rested mainly on two pillars: first, Iqbal held that endowing the world-historical process 'with a purpose' or an already determined aim—in Nietzsche's case, the striving towards this ideal man, liberated from all ethical and moral burdens—amounted to nothing less than robbing the Divine historical process of becoming 'of its originality and its creative character'.[23] In other words, Nietzsche's developmental stages, through which man had to pass to acquire maturity

[20] Muhammad Suheyl Umar, ed., *Iqbal: Collected Poetical Works* (Lahore: Iqbal Academy Pakistan, 2012), 487.
[21] Ibid., 488.
[22] Ibid., 487.
[23] Interestingly, Iqbal employs *khudi* in a somewhat transgressive or rather unorthodox way: *khudi* is the engine for both the Divine and human process, reducing as it does the differences between God and Man to one of degree and not of kind. Muhammad Iqbal, *The Reconstruction of Religious Thought in Islam* (London: Oxford University Press, 1934), 52.

and develop into the *Übermensch*, were for Iqbal nothing more than stumbling blocks that infringed upon the free movement of thought and action. While for Nietzsche action necessarily had to be translated into some form of a revolutionary uprising against the repressive symbolic order,[24] Iqbal remained ambivalent towards the declaration of such clear aims. Instead, for Iqbal, the ends of political acts could not be determined at the outset and would not culminate in any singular purpose of material liberation.

In opposition to the cyclical ebb and flow of power relationships that Nietzsche proposed in recourse to Schopenhauer,[25] Iqbal identified the crucial conceptual problem in the a priori definition of a 'far off distant goal' towards 'which we are moving'. For Iqbal, this was problematic in assertions of individuality or a Hegelian unfolding of the particular into the universal world spirit.[26] While there may well be a more significant 'historical process' at play in the universe, Iqbal observed, one could readily 'confess' that such a process was 'beyond our intellectual capacity to understand'.[27] In its place, Iqbal emphasized the principles of dynamism and creativity and as a conceptual metaphor offered an exciting spin on Zeno's arrow paradox. The movement of an arrow, he contended, is accurately grasped neither by empirically measuring its concrete position in space—as the ability to view the more significant movement is lost—nor by defining a fixed end on the outset to determine the broader movement of the arrow.[28] Rather, at every step of its way, the arrow retains its potential to defy the laws of physics and could thus at every stage reformulate 'fresh ends' that keep changing at each step of the way. The hypothetical endpoint in this way resists any conclusive description:

[24] I am following Martin Heidegger's reading of Nietzsche, particularly in his analysis of the destructive dimension of the 'will to power' (Wille zur Macht): Martin Heidegger, *Nietzsche. Zweiter Band* (Pfullingen: Neske, 1961), 13–45.

[25] Friedrich Nietzsche, *Also Sprach Zarathustra I-IV: Kritische Studienausgabe*, ed. Giorgio Colli and Mazzino Montinari (München: Deutscher Taschenbuch Verlag, 1999), 40–56; Benjamin A. Elman, 'Nietzsche and Buddhism', *Journal of the History of Ideas* 44, no. 4 (1983): 671–686.

[26] Iqbal, *The Reconstruction of Religious Thought in Islam*, 52.

[27] As Iqbal wrote in response to an article published in *The Light,* arguing for a linear understanding of progress on Hegelian grounds: 'I am rather inclined to a view which regards the historical process as a free creative movement and not a process which has already been worked out with definite landmarks.' 'Dr. Iqbal Again', *The Light*, 16 August 1935.

[28] Iqbal, *The Reconstruction of Religious Thought in Islam*, 45.

> We become by ceasing to be what we are. Life is a passage through a series of deaths. But there is a system in the continuity of this passage. (…) The world process, or the movement of the universe in time, is certainly devoid of purpose, if by purpose we mean a foreseen end––a far-off fixed destination to which the whole creation moves. To endow the world process with purpose in this sense is to rob it of its originality and its creative character. Its ends are terminations of a career; they are ends to come and not necessarily premeditated.[29]

The second critique of Nietzsche that Iqbal forwarded relates to the apparent non-inclusive nature of Nietzsche's will to power. For Nietzsche, this will to power crystallizes as a concrete material reality for a chosen few in what could be called the 'aristocracy of superman'. In an article written for the *New Era* on 28 July 1917, Iqbal juxtaposed Nietzsche's notion of this aristocratic rulership with the 'spiritual concept' of 'Islamic Democracy'. In Islamic democracy, Iqbal argued 'every being' possessed some inherent 'latent powers and possibilities' that carried within them the potential to cultivate 'a certain type of character'.[30] Islam had proven, Iqbal asserted, that such transformations of outlook and character to a somewhat vague but certainly higher ethical ideal were conceivable for the whole of humanity and could not be limited to any specific race or the philosophical tradition of a chosen few.[31] Both Nietzsche's and Iqbal's thought that man had to eradicate history to equip him with the tools to reconstitute himself and to confront the demands of the age. But, Iqbal rejected the inherent elitism of the Nietzschean project divided their political visions in fundamental ways.[32]

Iqbal's turn towards egalitarian principles also finds reflection in his legal thought, where he remained sensitive towards the inclusive procedural aspects of decision-making processes. Indeed, Iqbal did not support the view of unchanging Islamic law.[33] Shariatic values, Iqbal argued, were

[29] Ibid., 52.

[30] Muhammad Iqbal, 'Muslim Democracy', *New Era*, 28 July 1917.

[31] Ibid.

[32] Iqbal proposed the same argument in his short analysis of Nietzsche's thought to the Persian mystic Jalal-ud-Din Rumi: Muhammad Iqbal, 'Nietzsche and Jalal-Ud-Din Rumi', *New Era*, 14 August 1917.

[33] Iqbal writes in his *Reconstruction of Religious Thought in Islam*: '[Society] must possess eternal principles to regulate its collective life, for the eternal gives us a foothold in the world of perpetual change. But eternal principles, when they are understood to exclude all possibilities of

in themselves historically contingent. Scholars could apply them only to 'specific people' at a specific moment in time only. Their 'observance' was 'not an end in itself' and could certainly not be applied to 'future generations' in any straightforward way.[34] As a consequence, the law had to remain responsive to changes within society and adapt itself accordingly.

While discussing the radical modernist transformations taking place in Turkey, for instance, Iqbal argued that such reformist agendas were entirely consistent with his vision of Islam. The Turks had not acted in contradiction with the basic religious grammar. As a system of public law, Islam was amenable to modification and, for Iqbal, through the use of *ijtihad* (independent legal reasoning). The laws it produced were an outcome of a consensus among the community, *ijma*. However, Iqbal was not willing to empty Islam entirely, and suggested two universal principles that Muslims could not legislate away: *tauhid* and the finality of Prophethood:

> You will see that following a line of thought more in tune with the spirit of Islam, he [the grand vizier of Turkey, Said Halim Pasha] reaches practically the same conclusion as the Nationalist Party, that is to say, the freedom of Ijtihad with a view to rebuild the law of Shariat in the light of modern thought and experience. Let us now see how the Grand National Assembly has exercised this power of Ijtehad in regard to the institution of Khilafat. According to Sunni Law the appointment of an Imam or Khalifa is absolutely indispensible. The first question that arises in this connexion is this: should the Caliphate be vested in a single person? Turkey's Ijtihad is that according to the spirit of Islam the Caliphate or Imamate can be vested in a body of persons, or an elected Assembly. The religious doctors of Islam in Egypt and India, so far as I know, have not yet expressed themselves on this point. Personally, I believe the Turkish view is perfectly sound. It is hardly necessary to argue this point. The republican form of government is not only thoroughly

change, which, according to the Qur'an, is one of the greatest "signs" of God, tend to immobilize what is essentially mobile in its nature. The failure of Europe in political and social sciences illustrates the former principle, the immobility of Islam during the last five hundred years illustrates the latter. What then is the principle of movement in the structure of Islam? This is known as ijtihad.' Iqbal, *The Reconstruction of Religious Thought in Islam*, 139.

[34] Ibid., 171.

> consistent with the spirit of Islam, but has also become a necessity in view of the new forces that are set free in the world of Islam.[35]

Iqbal argued that such political gestures were different from European forms of nationalism. Partly this was because Iqbal thought that the Young Turks did not impress a 'new religion' upon their people but rather that their demands were reflective of the current 'psychic condition' of its Muslim population. Muslims should follow Mustafa Kemal's modernism unless it became too close to Western secularism, as opposed to expressing the public reason of the Turkish people.[36] Iqbal endorsed reforms that attempted to bring Islamic law closer to the changed mental outlook of the Turkish nation.

The republicanism that Iqbal endorsed in the case of Turkey was an abstract template of a national form of representation—one in which religious identities above other normative claims are made central to the democratic process. Very much along republican lines, then, the displacement of the sovereign—in the case of the Turkey Ottoman caliphate—became crucial for Iqbal to envision popular sovereignty. Iqbal did so by prescribing an inclusive democratic system that would provide a space for the individual to assert him or herself into the collective process through free public reasoning (*ijtihad*) and eventually the establishment of a consensus (*ijma*).[37] Although this may seem like a radical gesture, Iqbal cautioned that republicanism was but a coherent remodelling of the traditional institution of the caliphate to the twentieth century. In the current age individuals claiming personal authority were going out of fashion. Muslim people replaced them with popular assemblies that asserted their will. In two articles written for the Hindustan Review with the title *Islam as a Moral and Political Idea*, Iqbal declared his opposition to political authority concentrated in a single leader. He argued that

[35] Ibid., 149.
[36] Ibid.
[37] Iqbal explicitly endorses democratic political structures for states with Muslim majorities as the most important aspect of Islam as a political ideal: 'The best form of Government for such a [Muslim] community would be democracy, the ideal of which is to let man develop all the possibilities of his nature by allowing him as much freedom as practicable. The Caliph of Islam is not an infallible being; like other Muslims he is subject to the same law; he is elected by the people and deposed by them if he goes contrary to the law. (…) Democracy, then, is the most important aspect of Islam regarded as a political ideal.' Muhammad Iqbal, 'Islam as a Moral and Political Idea', *Hindustan Review* 20, no. 120 (1909): 169.

Muslim societies, while beneficiaries of individual leadership for a large part of their history, had come to outgrow the need for such leaders in the modern age and should rely instead on electoral assemblies that were more attuned to the popular will:

> Islam has a horror of personal authority. We regard it as inimical to the unfoldment of human individuality. The Shias, of course, differ from the Sunnis in this respect. They hold that the Caliph or Imam is appointed by God and his interpretation of the law is final; he is infallible and his authority, therefore, is absolutely supreme. There is certainly a grain of truth in this view; since the principle of absolute authority has functioned usefully in the course of the history of mankind. But it must be admitted that the idea works well in the case of primitive societies and reveals its deficiency when applied to higher stages of civilisation. Peoples grow out of it as recent events have revealed in Persia, which is a Shia country, yet demands a fundamental structural change in her Government in the introduction of the principle of election.[38]

For Iqbal, *ijtihad* was already inherently linked to specific cultural systems in which it could perform the task of producing 'movement' in the political sphere. In other words, Iqbal conceived of different modern political formations of Muslims in a transnational context as deriving their legitimacy from the people, which, in the case of Turkey, for instance, was entirely based on the notion of linguistic and ethnic commonality. Muslim nationality, Iqbal argued, lay in its 'unity of belief' of the Islamic tenets. As such, it was a pure idea without any 'geographical basis'. As a material manifestation, Muslim nationality splintered into different cultural groups. In the words of Iqbal, these groups ranged from 'Arabia', 'Persia', and 'Turkey', to 'Indian Muhammadan[s]'.[39] Conceptually this may appear to be a contradiction in terms. But Iqbal held that the territorial grounding of this pure idea would not infringe the universal principles of Islam, as it was not essential to come together as one global community to insert the human ego into the political structures of the twentieth century.

[38] Ibid., 170.
[39] Iqbal, *The Reconstruction of Religious Thought in Islam*, 170.

Iqbal's accommodation for cultural particularities explains his early departure from the Khilafat movement, which sought to defend the dynastic rulership of the Ottoman sultan and at some level establish political unity between Hindus and Muslims. For Iqbal, this movement fought a battle that the Turkish nation ought to fight. While nationalism in the European sense was neither wanted nor endorsed in Iqbal's writings, he did presuppose sociocultural realities that provided a fruitful background within which transformation—or reconstruction—could take place.[40] Therefore, Iqbal advised that 'every Moslem nation' should 'sink into her own deeper self'. Only after Muslim nations had a clear 'vision of herself' and were 'strong and powerful to form a living family of republics', should they consider grouping into an Islamic League of Nations. In this imagined League, Iqbal hoped, 'racial distinctions' would be reduced to 'reference':[41]

> It [unity of Muslim republics] is truly manifested in a multiplicity of free independent units whose racial rivalries are adjusted and harmonised by the unifying bond of a common spiritual aspiration. It seems to me that God is slowly bringing home to us the truth that Islam is neither Nationalism nor Imperialism but a League of Nations which recognises artificial boundaries and racial distinctions for facility of reference only, and not for restricting the social horizon of its members.[42]

Indian Muslims were only able to participate in this international body, Iqbal stressed when they could solve the 'difficulty' of 'non-Muslims' participation in the 'legislative assembly'. Iqbal held that non-Muslim participation would necessarily dilute the constitutive 'power of Ijtihad'. This dilution would put Iqbal's radical egalitarianism at risk.[43]

Muslim constitutional frameworks, apart from their legitimation through the popular sovereign, relied on the acceptance and implementation of the principles, *tauhid* and the finality of Prophethood. In Iqbal's constitutional thinking, these highly normative legal principles function as a protective shield against attacks that could violate the republican and

[40] Iqbal, 'Islam As A Moral And Political Idea', 171.
[41] Iqbal, *The Reconstruction of Religious Thought in Islam*, 151–152.
[42] Ibid., 152.
[43] Ibid., 165.

democratic ethos. *Tauhid*, as a legal concept, in Iqbal's reading, prevented the separation of religion from politics. The finality of Prophethood guarded the 'absolute equality of all the members of the community'.[44] The universality of these principles endorsed regional differences as a basis for establishing sovereign states.

However, creating national-states was not the only way in which transnational experiences could be made relevant to Indian Muslims. Iqbal advocated that comparable historical experience, for instance, the loss of political power, tied German and Indian Muslims closely together. Both nations suffered decisive military defeats at the hands of foreign powers—the Germans in the 1806 battle of Jena against the invading Napoleonic forces and Indian Muslims against the East India Company. Subsequently, they suffered severe political humiliation that was inherent in their colonization. For both nations, this displacement of the sovereign structure to which they had adhered necessitated a fundamental reconstruction to come up with a novel communitarian outlook. Iqbal thought that while Germany had taken the root of linguistic and ethnic nationalism and broken away from the universal ethics of the Christian church, Indian Muslims could not rely on such material conceptions to substantiate their claim to power.[45]

The legal theorist Carl Schmitt also identified the defeat of the Prussian army in the 1806 battle of Jena as the birthing moment of a novel form of 'humanitarian idealism'—a secularized form of Christian ethics—that constituted the basis for the discourse on German nationality in the nineteenth century. Schmitt argued that the sudden loss of political power

[44] Iqbal, 'Islam As A Moral And Political Idea', 170.

[45] Generally, humiliation has been seen as a form of maltreatment, or, as suggested by Charles Taylor, a form of misrecognition and cultural injustice. On the other hand, it has also been suggested that humiliation contains a constructive and transformative rather than a purely destructive moment. For example, in the context of advancing the concept of humiliation as a constitutive force in the construction of indigenous cultural identities, the anthropologist Marshal Sahlins has brought forward an elaborative account of this emotional dimension of the colonial encounter. One of the main ideas of Sahlins' model of cultural change is that indigenous categories shape people's understanding of novel experiences. Rather than a passive capitulation to the structural transformations that come with 'modernity', Sahlins proposes an 'affirmative and agentive' modernization, with the focus on local people and their initiatives. He concludes that humiliation may be something that comes from the outside, but the communal categories and responses are always formed within a given culture: Marshall Sahlins, 'The Economics of Develop-Man in the Pacific', in *The Making of Global and Local Modernities in Melanesia*, ed. Joel Robbins and Holly Wardlow (Burlington, VT: Ashgate Publishing Company, 2005); Charles Taylor, *The Ethics of Authenticity* (Cambridge, MA: Harvard University Press, 1991), 46.

created a vacuum that philosophers from Fichte to Herder, and even Hegel, came to fill with romantic imaginations of a communitarian unity that had not existed before.[46] Similarly, Iqbal ascribed the birth of Indian Muslims as a distinct community to the defeat of Tipu Sultan, the last Muslim ruler of the Kingdom of Mysore, in 1799:

> Thus in the year 1799 the political decay of Islam in India reached its climax. But just as out of the humiliation of Germany on the day of Jena arose the modern German nation, it may be said with equal truth that out of the political humiliation of Islam in 1799 arose modern Islam.[47]

For Iqbal, collective experiences—for instance, the political humiliation of German and Indian Muslims—could constitute political communities. Iqbal was lukewarm about the creation of communities from law, which in India made heavy use of statistical measures and processes of enumeration.

Solidarity and the Ahmadiyya Question

In an article published in the *Indian Antiquary*, a 23-year-old Iqbal, in an early exploration of his concept of *khudi* in the context of the work of Abdul Karim Al-Jilani (a medieval Baghdadi scholar, d. 1492), highlighted another narrative for the intellectual composition of his idea. Iqbal acknowledged that, unlike Hinduism, Islam had not produced men with the 'philosophical acumen' of 'Kapila and Samkara'. That it had failed to do so did not mean that Islam was devoid of its own deeper philosophical structure.[48] Parallel to the Advaita Vedanta, the school of philosophy of Adi Shankara, Iqbal conceptualized emancipation from the Divine as a

[46] Schmitt seems to be following Oswald Spengler in the hypothesis that Napoleon's expansionist tendencies were of 'French blood but British spirit'. Sprengler had argued, simply put, that Bentham's philosophy had penetrated and fuelled Napoleon's desire for territorial expansion: Oswald Spengler, *Der Untergang Des Abendlandes: Umrisse Einer Morphologie Der Weltgeschichte* (München: Deutscher Taschenbuch Verlag, 2003), 195; Carl Schmitt, *Der Begriff Des Politischen* (München und Leipzig: Verlag von Duncker & Humblot, 1932), 53.

[47] Muhammad Iqbal, *Islam and Ahmadism: A Reply to Questions Raised by Pandit Jawahr Lal Nehru* (Lahore: Sh. Muhammad Ashraf, 1980), 27.

[48] Muhammad Iqbal, 'The Doctrine of Absolute Unity, as Expounded by Abu-L-Karim Al-Jilani', *The Indian Antiquary: A Journal of Oriental Research* XXIX (1900): 238.

non-dualistic movement through various stages. These stages culminate in the discovery of unity. In Iqbal's words: 'The darkness of Pure Being is illuminated, nature come[s] to the front, the Absolute Being.'[49] The overcoming of the ego through the assertion of man's individuality—though within the greater individuality of God—leads to a blissful phase of pure 'essence' (*zaat*), where man becomes 'god-man':

> It is here that he [man] becomes the god-man; his eye become the eye of God; his word the word of God and his life the life of God.[50]

Such evolutionary positions were, however, not derived from speculative thought alone. Iqbal's claimed that he derived them from personal experiences. The ideal god-man of the current age, Iqbal explained in his treatise, Mirza 'Ghulam Ahmad of Qadian', had intuitively understood this theoretical paradigm of merging with the Divine while retaining individuality.[51] How was it then, one may ask, that Iqbal moved from his position of calling Ghulam Ahmad the 'greatest theologian' of his age, to proclaiming that Ahmad needed 'psychological treatment' and that his movement constituted the 'greatest problem of the whole world'?[52]

At least in part one could explain Iqbal's fascination in Mirza Ghulam Ahmad because the latter claimed spiritual rebirth of both Krishna and Jesus led to intense missionary activity with an undeniable political and cultural impact, which arguably provided the blueprint for Iqbal's concept of *khudi*. Only three decades after their foundation, Ahmadis had erected missions all over India, acquired several printing presses in Qadian and Lahore, and started to publish several daily newspapers, countless books, and magazines.[53]

Iqbal had taken notice of Ghulam Ahmad early on in one of the many public spectacles in Sialkot, where religious apologists sought to defend and attack the religion of their opponent, and who had a tendency to focus on the sexual transgression, imagined or practised, in the other's

[49] Ibid.
[50] Ibid., 239.
[51] Ibid.
[52] Iqbal, *Islam and Ahmadism: A Reply to Questions Raised by Pandit Jawahr Lal Nehru*, 26.
[53] Spencer Lavan, *The Ahmadiyah Movement: A History and Perspective* (New Delhi: Manohar, 1974), 64–92.

religion.[54] These events were advertised like wrestling matches and drew a large number of spectators from the rural hinterlands into the city to witness an exchange of heated arguments.[55] The learned *ulema* tended to stay away from these debates. After the theologian Sanaullah Amritsari accused Ahmad of being an imposter and a fraud, Iqbal wrote a poem in Ahmad's defence, asserting that Amritsari's sectarianism would only play into the hands of the Christian missionaries and the Arya Samaj, the main participants in these debates with Ghulam Ahmad.[56]

The main theological dispute that Amritsari and other *ulema* had with Ahmad centred around the questions of whether communication between God and man could still occur. Amritsari argued that such forms of Divine communication had come to an end with the death of the Prophet Muhammad. For this reason, the Prophet Muhammad was called '*khatam-un-nabiyyeen*' (last prophet), the transmitter of an eternal and perfect religious code.[57] As Amritsari emphasized in a rejoinder to an article published in the *Tribune* in 1907, which insinuated that Amritsari was avoiding a religious prayer contest—a so-called *mobahillah*—with Ahmad:

> I regard the prophecies and inspirations of the Mirza of Kadian quite absurd and nonsense. The intention of his letter, mentioned in your paper, is that I may leave opposing him. But let the public realise that I would not desist from exposing his fooleries by his mere threats and will continue laying bare his falsities and impostures.[58]

For Ahmad, revelation and prophecy were continuous processes. They could only be brought to a halt in a post-apocalyptic scenario. In such a situation, humanity would not require any further guidance from God.[59]

[54] Yohanan Friedmann, *Prophecy Continuous: Aspects of Ahmadi Religious Thought and Its Medieval Background* (New Delhi: Oxford University Press, 2003), 255; A.R. Dard, *Life of Ahmad: Founder of the Ahmadiyya Movement* (Tilford, Surrey: Islam International Publications, 2008), 156.

[55] Friedmann, *Prophecy Continuous:Aspects of Ahmadi Religious Thought and Its Medieval Background*, 158.

[56] Muhammad Iqbal, *Kuliyat-E-Iqbal* (Lahore: Iqbal Academy Pakistan, 1990), 618.

[57] Martin Riexinger, *Sanaullah Amritsari (1868–1948) Und Die Ahl-I Hadis Im Punjab Unter Britischer Herrschaft, Mitteilungen Zur Sozial-Und Kulturgeschichte Der Islamischen Welt* (Würzburg: Ergon Verlag, 2004), 189.

[58] Maulvi Sanaullah, 'A Rejoinder', *The Tribune*, 18 May 1907.

[59] Mirza Ghulam Ahmad, *Surma Chashmarya* (Qadian: Zia-ul-Islam Press, 1901), 2.

Ahmad himself claimed to be a recipient of such Divine signs and revelations and claimed that these signs 'guided' him in 'all small and big matters of life'.[60] In this way, Iqbal's concept of an ideal man did not necessarily stand against Divine revelation. In Iqbal's view, one could regard revelation as a process in continuation. Iqbal further clarified his position regarding revelations in a letter to his friend Niyazudin Khan:

> I believe that the Prophet Muhammad is alive, and that people of these times can derive spiritual benefits from him just as did his companions. But in this age even the expression of a belief of this kind would be unacceptable to most minds––so I keep quiet.[61]

In a series of lectures delivered at Madras, Hyderabad, and Aligarh in 1930, compiled as *The Reconstruction of Religious Thought in Islam*, Iqbal remained ambiguous on the concrete role of revelation. He placed the Prophet Muhammad between an ancient, somewhat pagan world, where the possibility of revelation still existed, and a modern world that was no longer in need of revelation:[62]

> Looking at the matter from this point of view, then the Prophet of Islam seems to stand between the ancient and the modern world. In so far as the source of his revelation is concerned he belongs to the ancient world; in so far as the spirit of his revelation is concerned he belongs to the modern world. The birth of Islam, as I hope to be able presently to prove to your satisfaction, is the birth of inductive intellect. In Islam prophecy reaches its perfection in discovering the need of its own abolition. (…) That in order to achieve full self-consciousness man must finally be thrown back on his own resources.[63]

If examined in isolation, this quote suggests that Iqbal sought a complete break from the 'ancient' world, where people could only make sense of their material existence in religious terms and thus needed prophetic revelations. Iqbal, however, goes on to assert in the next paragraph that this

[60] Mirza Ghulam Ahmad, *Hujjat Ul Islam* (Qadian: Zia-ul-Islam Press, 1902), 15.
[61] Iqbal, *Kuliyat-E-Iqbal*, 317.
[62] See only: Devji, *Muslim Zion: Pakistan as a Political Idea*, 156.
[63] Iqbal, *The Reconstruction of Religious Thought in Islam*, 120.

does not mean that modern 'mystic experience' differs qualitatively in the least 'from the experience of the prophet', or that revelation 'has ceased to exist as a vital fact' in contemporary religious life.[64] Rather than a displacement of 'emotion by reason', Iqbal's attempt was primarily directed at embedding and interpreting any new prophetic revelations in light of the metaphysical structure of the Qur'an in a 'scientific spirit'.[65] While Iqbal did not seek to uncouple revelation from Islam, which he considered to be an 'important source of human knowledge', the political consequences of revealed knowledge in the present age had to be monitored and restricted.[66] Iqbal allowed creativity at every moment of human existence, shaped by the radical possibilities of the future. This view contradicts a closed teleological system.

When asked to clarify his position further, Iqbal noted that only a superficial reading of his work would allow for the conclusion that he had alluded to a complete detachment of man from God. At the heart of his contention, Iqbal clarified, was merely the desire to establish that the 'word of God as embodied in the Quran' was 'final and authoritative'.[67] New revelations could undoubtedly occur. Iqbal himself had ascribed them in an earlier statement to the medieval Islamic thinker Al Ghazali. As long as these revelations did not contradict the Quran, and established any 'personal authority' based on a 'supernatural origin', they continued to be possible.[68] It was only through revelation and messianic intervention that Iqbal conceived of the saviour of humanity as a whole.[69]

The path of reaching this aim for Iqbal was very much along the lines of Ahmad's religious polemics, which were in full swing in the early part of the twentieth century.[70] Conflict, at times taking a violent form, for Iqbal, was necessary to maintain and strengthen weakened identities that were otherwise perpetually unstable and in danger of dissolution, if not disappearing altogether:

[64] Ibid.
[65] Ibid., 121.
[66] Ibid.
[67] Raja Hasan Akhtar, 'Dr. Iqbal Misunderstood', *The Light*, 16 August 1935.
[68] Iqbal, *The Reconstruction of Religious Thought in Islam*, 120.
[69] For a detailed account of Ahmad's theological view, see only: Mirza Ghulam Ahmad, 'Eek Atrazaat Ka Jawaab', *Al Badr*, 13 February 1903.
[70] Bob Van der Linden, *The Moral Languages from Colonial Punjab: The Singh Sabha, Arya Samaj and Ahmadiyahs* (New Delhi: Manohar, 2008), 119–143.

> I recognise the need of all forms of activity, including conflict, which tend to make the human person more and more stable. (…) Modern physical science has taught us that the atom of material energy has achieved its present form through many thousands of years of evolution. Yet it is unstable and can be made to disappear. The same is the case with the atom of mind energy, i.e. the human person. It has achieved its present form through aeons of incessant effort and conflict; yet, in spite of all this, its instability is clear from the various phenomena of mental pathology.[71]

It is, however, not simply in such abstract principles that Iqbal and Mirza Ghulam Ahmad shared a conceptual overlap. In the cultural and political endeavours to improve the position of Muslims in colonial India, Iqbal was no stranger to institutions that were either founded on or closely tied to, the Ahmadiyya. The Anjuman Himayat-i-Islam, an institution created to provide access to modern education for Punjabi Muslims, from which Iqbal received his earliest support counted a large number of high-ranking Ahmadis in its governing board.[72]

Like Ghulam Ahmad, Iqbal was also conscious of the fact that colonialism had provided him with the space in which he could express his views under the rubric of ethical reform in an otherwise heavily censored public sphere. Both men had therefore remained largely sympathetic and continued to seek recognition from the British crown, which they—perhaps as a justificatory narrative—repeatedly proclaimed to be the most significant Muslim Empire.[73] Such expression reveals that more than just the repressed fantasies of rulership of a mostly disenfranchised and disparate Muslim population in India, both men were ultimately seeking to transcend the colonial enterprise through a messianic narrative.

From this background, then, it seems somewhat astonishing that Iqbal turned profoundly hostile against the Ahmadiyya and initiated several campaigns to have them excluded from all Muslim organizations in

[71] Umar, *Iqbal: Collected Poetical Works*, 488.

[72] 'Anjuman Hamayt-E-Islam Lahore Aur Memoril:' *Al Hakam*, 13 May 1898.

[73] Iqbal writes in an article published in 1909: 'It is not the number of Muhammadans which it protects, but the spirit of the British Empire that makes it the greatest Muhammadan Empire in the world', in Iqbal, 'Islam As A Moral And Political Idea', 170; Mirza Ghulam Ahmad, *Tohfa-E-Qaisariyya* (Qadian: Zia-ul-Islam Press, 1895).

the last three years of his life.[74] The relationship arguably changed after a collaborative effort that Iqbal undertook with the Qadian section of the Ahmadiyya, to draw attention to the plight of Kashmiri Muslims. Muslims formed a substantial part of the Kashmiri population but had no political participation in the princely state under close British watch.[75]

On 25 July 1931, the Unionist leader Fazl-i-Husain invited a group of Punjabi Muslims to his residence in Shimla. He wanted to determine a new course in assisting Kashmiri Muslims to conduct their fight for self-determination more effectively.[76] As a first step, this warranted a make-over of the somewhat defunct All India Kashmir Committee, which had been in existence for some decades but unsuccessful in providing any meaningful support to Kashmiri Muslims.[77] For the presidency of the Committee, Fazl-i-Husain had Iqbal in mind and, despite their ideological differences, considered Iqbal to be a figure of unity among Indian Muslims.[78] During the deliberations, Iqbal proposed that it would be better if Mirza Mahmud, the caliph of the Ahmadiyya and son of Ghulam Ahmad, took over the presidency.[79] Iqbal hoped that Mirza Mahmud, in his role as president, would provide much-needed financial support to the Committee and, more importantly, use his movement to help Kashmiris

[74] From 1935 onwards, Iqbal had become almost entirely dependent on his secretary, a young activist named Mian Muhammad Shafi, who later acquired some popularity as a journalist under his pen-name Meem Sheen. The initial suspicion that Iqbal's antagonism against the Ahmadiyya had to do with his new secretary, as it pretty much coincided with Iqbal's inability to write himself, could not be substantiated. Indeed, Shafi had proposed an Islamic constitutional reform scheme in 1938 along with two religious scholars from the 'Panjab Muslim Student Federation'—an organization closely aligned with the League—Abdus Sattar Khan Niazi and Ibrahim Ali Chishti. But while both of Shafi's co-authors actively participated in, and even led, anti-Ahmadi agitation in the following decades and continued to publish extensively against the Ahmadiyya, Shafi's role remained largely silent. Unlike Niazi and Chishti, Shafi neither became directly involved in any polemics nor participated, to the author's knowledge, in any anti-Ahmadiyya agitations in the following decades: David Gilmartin, 'Tribe, Land and Religion in the Punjab: Muslim Politics and the Making of Pakistan' (University of California, Berkley, PhD Unpublished, 1979), 224; Ayesha Jalal, *Self and Sovereignty: Individual and Community in South Asian Islam Since 1850* (London & New York: Routledge, 2000), 459; Markus Daechsel, *The Politics of Self-Expression: The Urdu Middle-Class Milieu in Mid-Twentieth-Century India and Pakistan* (New York: Routledge, 2006), 55.

[75] Sumantra Bose, *Kashmir: Roots of Conflict, Paths to Peace* (Cambridge, MA: Harvard University Press, 2003), 14–36.

[76] 'Kashmir Bloodshed', *The Light*, 8 August 1931.

[77] Mohammad Yasin, *History of the Freedom Struggle in Jammu & Kashmir* (New Delhi: Light & Life, 1980), 67.

[78] Waheed Ahmad, ed., *Diary and Notes of Mian Fazl-I-Husain* (Lahore: Research Society of Pakistan: University of the Punjab, 1977), 548.

[79] Adil Hussain Khan, 'The Kashmir Crisis as a Political Platform for Jama'at-I-Ahmadiyya's Entrance into South Asian Politics', *Modern Asian Studies* 46, no. 5 (29 February 2012): 1401.

organize themselves politically and fight for their political participation in the princely state.[80] Iqbal remained, however, actively involved in the deliberations of the Committee and the issue of Kashmir played a central role in his Presidential Address at the All India Muslim Conference in Lahore on 21 March 1932. The 'growing self-consciousness in people all over the world' was now 'demanding recognition' to participate in the 'administration which govern them', Iqbal asserted; the fight for the political participation of 'Kashmiris was absolutely just'.[81] Importantly, Kashmiris did not require any 'political tutelage' and thus deserved 'some kind of a popular assembly'.[82]

While the election of another high-profile Ahmadi, Zafrullah Khan, to the presidency of the All India Muslim League in 1931 had propelled the opposition against the Ahmadiyya to new heights, the workings of the Kashmir Committee continued to function with little disruption for a further two years.[83] Iqbal's public association with the Ahmadiyya was viewed by many of his interlocutors with suspicion. At least one Deobandi scholar, Anwar Shah Kashmiri, refused to visit Iqbal's house and interact with him socially as a result of his proximity to the Ahmadiyya.[84] Despite such social pressures, Iqbal continued to attend their meetings and repeatedly spoke from Ahmadi platforms.[85]

On 4 May 1933, Mirza Mahmud Ahmad, then president of the All India Kashmir Committee, was forced to resign from his office. A large number of its members refused to carry on under his leadership. They demanded the introduction of a constitutional framework, which would make the Committee accountable.[86] The Majlis-e-Ahrar, in particular, had further fuelled sectarian tensions in Kashmir and ignited Muslims to boycott any programmes run by the Committee, because of their proximity to the Ahmadiyya.[87] Iqbal was appointed as the interim president

[80] Ian Copland, 'Islam and Political Mobilization in Kashmir, 1931–34', *Pacific Affairs* 54, no. 2 (1981): 231.

[81] Shamloo, ed., *Speeches and Statements of Iqbal* (Lahore: Al-Manar Academy, 1944), 40.

[82] Ibid., 41.

[83] Tahir Kamran, 'The Pre-History of Religious Exclusionism in Contemporary Pakistan: Khatam-E-Nubuwwat 1889–1953', *Modern Asian Studies*, 2015, 1–35.

[84] Jalal, *Self and Sovereignty: Individual and Community in South Asian Islam Since 1850*, 367.

[85] Khan, 'The Kashmir Crisis as a Political Platform for Jama'at-I-Ahmadiyya's Entrance into South Asian Politics', 1403.

[86] Fazl-i-Husain to Zafrullah Khan, 26 June 1933, in Waheed Ahamd, ed., *Letters of Mian Fazl-I-Husain* (Lahore: Research Society of Pakistan: University of the Punjab, 1976), 310.

[87] Mirza Yaqub Beg, 'The Ahrar and the Kashmir Committee', *The Light*, 1 November 1931.

shortly after Mahmud Ahmad resigned.[88] The historian Ayesha Jalal, therefore, suggested that Iqbal had increasingly become charged with social jealousy of Ahmadis.[89] While these factors might well have informed Iqbal's thinking on the Ahmadiyya, they fall short to explain why Iqbal devoted a large part of his later writings to critiquing this revivalist sect.

On 20 June 1933, Iqbal also resigned from the presidency of the Kashmir Committee. In his letter of resignation, Iqbal made it clear that he could not continue as president of the Committee in its present form because of the lack of support he was receiving from its Ahmadi members.[90] What had made Iqbal wary of this fact, he continued in his resignation letter, was the resistance of the Ahmadis to adopting a new constitution for the Committee that Iqbal had been supporting, which he felt was of a 'thoroughly representative character'.[91] This reluctance had proven, Iqbal concluded, that Ahmadis privileged loyalty to their caliph above any political associations with other Muslims, which made them incapable of working under any constitutional structure. They could only act 'in obedience to the command of their religious leader' and would not recognize any administrative orders that came from any elected constitutional authority.[92]

The reasons for his opposition to Ahmadis provide a window into the particular kind of modern republican politics that Iqbal envisaged for Indian Muslims. The specific design of Ahmadi rules of succession and governance, which to him appeared sectarian, archaic, and irreconcilable with the 'modern' juridico-political institution of *ijtihad,* posed the threat of fragmenting the cosmopolitan principles that Iqbal had laid out to establish a political fraternity among Indian Muslims.[93] Justice, for Iqbal, was procedural and rational. The principle of self-rule required not only

[88] Fazl-i-Husain to Zafrullah Khan, 26 June 1933, in Ahamd, *Letters of Mian Fazl-I-Husain*, 311.

[89] Jalal, *Self and Sovereignty: Individual and Community in South Asian Islam Since 1850*, 367.

[90] Latif Ahmed Sherwani, ed., *Speeches, Writings and Statements of Iqbal* (Lahore: Iqbal Academy Pakistan, 1977), 233.

[91] Ibid.

[92] Ibid.

[93] The institutional structures of the Ahmadiyya were fundamentally revised during the time of their second caliph, Mirza Bashir-ud-Din Mahmud, which ultimately split the group into the 'Qadiani' and 'Lahori' factions, with the latter refusing to acknowledge the caliph's leadership. The reasons for this split are discussed in two books written by the opposing camps that appeared immediately after the event: Muhammad Ali, *The Ahmadiyya Movement IV: The Split* (Lahore: Coloured Printing Press, 1918); Bashiruddin Mahmud, *Truth about the Split* (Tilford, Surrey: Islam International Publications, 2007).

resistance to the colonizer but also willingness to submit to the maxims and laws of one's community. There was a significant overlap with Iqbal and the Ahmadis regarding the general policies to be adopted to assist Kashmiris. They diverged, however, on the procedural and legal ways in which the Committee should decide. For Iqbal, this did no longer allow for a 'smooth working', and it was thus in 'the best interest of all concerned' that 'the present Kashmir Committee should cease to exist'.[94] It could, however, be reconstituted through the public expression of the popular will. Iqbal advised that Muslim should exclude Ahmadis from participating in such popular votes in the future.[95]

On 2 October 1933, Iqbal took up the issue again. In reply to an offer from Mahmud Ahmad, in which the latter had asked Iqbal additionally to take up the presidency of the Tehrik-i-Kashmir association, a newly founded organization consisting mainly of those Ahmadis that had been excluded from participating in the Kashmir Committee. Iqbal rejected the offer outright and in his reply highlighted that the 'allegiance' of Ahmadis would always remain divided between their religious leader and the elected president.[96] Since 'no definite declaration' had 'emanated from the Qadiani headquarters that in the event of the Qadianis joining a Muslim political organization, their allegiance will not be divided', Iqbal assumed that Ahmadis were inherently 'dictatorial'.[97]

Therefore, Iqbal seems to suggest, loyalty to a religious leader stands in the way of entering a democratic political fraternity under the umbrella of Islam. Just as the Turks had to depose of their caliph for the public will to crystalize in an elected assembly, so too did Indian Muslims have to remove all authoritarian structures that alluded to Divine authority. In the first instance, it may appear that Iqbal's project was, after all, one of secularizing Muslim institutions and his exclusion of Ahmadis, therefore, a punishment for their privileging of religious leadership over any political alliances. However, the term 'secular' is of little help here, as it downplays Iqbal's insistence on Divine principles derived from revelation. It might be more useful to think of Iqbal's project as one of radical egalitarianism. At least in the framework of political associations, Iqbal wanted

[94] Sherwani, *Speeches, Writings and Statements of Iqbal*, 233.
[95] Ibid.
[96] Ibid., 234.
[97] Ibid., 232.

to replace religious authorities with public reason and procedural consensus. Ahmadis were thus constitutionally banned not just from joining the Kashmir Committee but also from participating in the proceedings that ratified the constitution. The constitution was the expression of a consensus that had already formed within Muslim society.

Iqbal's suspicion of Ahmadis further resembles the attitudes and assertions of several nationalists who were bringing up similar accusations regarding Indian Muslims as a whole. The Dalit activist leader, B. R. Ambedkar, was quick to ascertain that Muslim soldiers in a united Indian army would always remain divided in their loyalties. One towards 'the place of their birth' and the other towards 'the place of their religion'.[98] Unlike Iqbal, Ambedkar was more akin to a traditional liberal and viewed religion and politics as two separate components of social life. The ostensible failure of Indian Muslims to conflate these two spheres could therefore produce a possible threat to a sovereign Indian state.

The discourse on Muslim loyalty has, of course, a darker colonial legacy, with Lord Minto being just one in a long line of colonial administrators to pose the question of whether the 'Indian Mussalmans' were 'bound by their religion to rebel against the Queen' or could make loyal subjects.[99] However, for Iqbal the question of loyalty was linked and ascertained within a combative constitutional framework. The refusal of Ahmadis to submit to the universal revealed principles of Islam laid out in his draft constitution of the Kashmir Committee, and their resistance to concede to the authority of its elected president, for Iqbal, rendered their participation in any political project impossible.

Iqbal was interested in the question of loyalty within the framework of instituting political fraternities. For him, such fraternities should exist conceptually rather than in territorial terms. Iqbal's opposition to nationalism, as it developed in Europe, is well documented.[100] Iqbal held that political communities could not stick together permanently based on ethnicity, linguistic proximity, or territory. He went further to declare

[98] B. R. Ambedkar, *Thoughts on Pakistan* (Bombay: Thacker & Co., 1940), 90.

[99] Antoinette Burton, *The Trouble with Empire: Challenges to Modern British Imperialism* (New York: Oxford University Press, 2015), 214.

[100] See only: Sevea, *The Political Philosophy of Muhammad Iqbal: Islam and Nationalism in Late Colonial India*, col. 2.

that any such project would inevitably lead humanity to 'perish' from the earth, as Europe had proven with the Great War:

> The student of history knows very well that Islam was born at a time when the old principles of human unification, such as blood-relationship and throne-culture, were failing. It, therefore, finds its principle of human not in the blood and bones but in the mind of man. Indeed, its social message to mankind is: 'Deracialise yourself or perish by internecine war.'[101]

For Iqbal, the very structures from which European political thinking—secularism and liberal democracy, in particular—had grown rested on a distinctly European experience. One could not universalize in any straightforward way. Indeed, the removal of the church from public life had created awareness in European states of the 'need of a unity' in the form of universal values that were, while not acknowledging it explicitly, not too far removed from the 'universal ethics of Jesus'.[102]

The ways in which national sentiments were evoked in Europe, Iqbal remarked in his famous Presidential Address at the annual session of the All India Muslim League held at Allahabad on 29 December 1930, were impossible to adopt in India. The social structure of society was entirely different. For instance, Hinduism, with its emphasis on caste and ritual, could only proclaim inclusive nationalism on the outside but would never be able to break free from the 'narrow-minded' social structure of 'caste' and 'tribe'.[103] Historical experience had proven beyond doubt, Iqbal asserted, that the various 'caste-units' were too resilient to be simply overcome by the rhetoric of nationalism, as they could not dissolve into any larger political body. In the same way as the syncretic teachings of Kabir or Akbar's political mission to unite India as a singular political entity had fallen short of producing a permanent political subject, so too did the Congress Party propagate a nationalism that was doomed to collapse:[104]

[101] Iqbal, *Islam and Ahmadism: A Reply to Questions Raised by Pandit Jawahr Lal Nehru*, 49.
[102] Shamloo, *Speeches and Statements of Iqbal*, 6.
[103] Ibid., 8.
[104] Ibid., 9.

> Each group is intensely jealous of its collective existence. The formation of the kind of moral consciousness which constitutes the essence of a nation in Renan's sense demands a price which the peoples of India are not prepared to pay. The unity of an Indian nation, therefore, must be sought, not in the negation but in the mutual harmony and co-operation of the many.[105]

In his Allahabad speech, Iqbal articulated the demand for a separate Muslim nation-state on Indian soil. Here Iqbal stated that he would 'like to see the Punjab, North-West Frontier Province, Sind and Baluchistan amalgamated into a single state', which would form the 'final destiny of the Muslims, at least of North-West India'. In principle, as the earlier part of the chapter has shown, Iqbal was not averse to the idea of nationalism in a broad sense, when purified of the ill effects of the European experience, and remained open to the universal political principles of *tauhid* and the finality of Prophethood, the primary tools with which Iqbal could conceptualize a political fraternity. It was a 'concrete fact' that India consisted of various communities with their own distinct political visions.[106] A 'united India', Iqbal emphasized in a statement given immediately after the Round Table Conferences on 6 December 1933, would necessarily have to take 'the distinct existence of more than one people in the country' into account and move away from the idea to 'fuse the communities' into a singular 'biological' body.[107] Instead, it would be sensible to redistribute the country 'on the basis of religious, historical and cultural affinities', which would, Iqbal hoped, solve the 'questions of electorates and the communal problem in its present form'.[108] This separatist scheme was not 'anti-national', Iqbal claimed, but on the contrary the most promising way to safeguard the 'unity of India'.[109]

For Iqbal, the 'residuary powers' had to rest with these sovereign and self-governing states alone. He was confident that such a conglomerate of newly formed states would immediately realize that it was in the 'interests common to the various communities of India' to come together as a

[105] Ibid.
[106] Ibid., 194.
[107] Ibid., 193.
[108] Ibid., 195.
[109] Ibid., 194.

greater union of Indian states.[110] In matters of defence, for instance, these newly formed Indian states could transfer some of their armed forces to the 'Centre'. At the same time, they could retain their own 'provincial armies' to secure 'internal peace'. The 'Federal State' could be responsible for handling 'a strong Indian Frontier Army', 'composed of units recruited from all provinces and officered by efficient and experienced military men taken from all communities':[111]

> I have no doubt that if a Federal Government is established, Muslim federal States will willingly agree, for purposes of India's defence, to the creation of neutral Indian military and naval forces. Such a neutral military force for the defence of India was a reality in the days of Mughal rule. Indeed in the time of Akbar the Indian frontier was, on the whole, defended by armies officered by Hindu generals. I am perfectly sure that the scheme for a neutral Indian army, based on a federated India, will intensify Muslim patriotic feeling, and finally set at rest the suspicion, if any, of Indian Muslims joining Muslims from beyond the frontier in the event of an invasion.[112]

In this sense, a united India for Iqbal primarily represented a federation of interests, or, as he put it, a union based on the principle of 'common sense'.[113] Notwithstanding the contractual nature of this federal unity, however, the feeling of belonging and 'patriotism' emanating from this political project would suffice to guarantee that states would not switch loyalties in the case of a foreign (Muslim) invasion. The 'love for one's land' was more of a 'natural instinct', Iqbal declared while outlining the nature of patriotism in the context of an Indian union. Further, he added that it required 'no impressions to nourish it', as 'every human being' was already 'prepared to make sacrifices for it' to keep the national unity afloat.[114]

In discussion with the scholar Husain Ahmad Madani, Iqbal linked the inherent logic of Congress nationalism more closely with the theological

[110] Ibid.
[111] Sherwani, *Speeches, Writings and Statements of Iqbal*, 14.
[112] Ibid., 19.
[113] Shamloo, *Speeches and Statements of Iqbal*, 205.
[114] Ibid.

doctrines of the Ahmadiyya. At the time of the correspondence in spring 1938, Madani had been the director of perhaps the most visible Islamic educational institution in India, the Darul Uloom Deoband, and also president of its political wing, the Jamiat-ul-Ulema-i-Hind.[115] The debate arose over the possibility of a Muslim–Hindu alliance in the political struggle for decolonization. Madani held that there was no theological contradiction in non-Muslims representing Muslims politically at the centre, as long as they shared a vision for a common political future. It was impossible to conceive of Indian Muslims, Madani reasoned, as dwelling outside the social fabric of the Indian nation. Madani argued that one only had to look at the countless overlapping social spheres they shared with Hindus. In recent times this proximity intensified through novel forms of 'social intercourse' that were 'taking place everywhere', in both social and political life, as he put it, from the 'railway station' to the 'assembly'.[116] The current social and political tensions between Hindus and Muslims, Madani insinuated, were merely an outcome of calculated British imperial tactics to 'extend their rule over India' by creating fissures and discontent among the indigenous population.[117]

Iqbal largely agreed with Madani's analysis of the present political situation, particularly the aspect that much of the Muslim–Hindu conflict was instituted by the British to continue their extractive economic policies through their project of colonial domination. In his New Year speech on 1 January 1938, broadcast on All India Radio, Iqbal expressed this in the following evocative way:

> After subjugating and establishing their dominion over weaker peoples, they have robbed them of their possessions, of their religions, their morals, of their cultural traditions and their literatures. Then they sowed divisions among them that they should shed one another's blood and go to sleep under the opiate of serfdom, so that the leech of imperialism might go on sucking their blood without interruption.[118]

[115] Barbara Metcalf, 'An Argumentative Indian: Maulana Husain Ahmad Madani, Islam and Nationalism in India', in *Islamic Legitimacy in a Plural Asia*, ed. Anthony Reid and Michael Gilsenan (London & New York: Routledge, 2007).

[116] Hussain Ahmed Madni, *An Open Letter to Moslem League* (Lahore: Dewan's Publications, 1946), 44.

[117] Ibid., 34.

[118] Shamloo, *Speeches and Statements of Iqbal*, 202.

Iqbal and Madani disagreed substantially, however, on what the concrete political recourse for Indian Muslims should be. In short, Madani proposed that the political future of Indian Muslims should be rooted in the concept of an inclusive composite nationalism (*muttahida qaumiyyat*),[119] a somewhat fuzzy idea that blended together notions of an Indian caliphate with secular institutional structures, but which ultimately endorsed people of diverse religious, cultural, linguistic, and ethnic backgrounds to come together as a political unit and one nation (*qaum*) rooted in a shared homeland (*wattaniyat*).[120] Iqbal had his reservations about applying the Quranic concept of *qaum* to India in any direct way, but was not interested in any 'quibbling' over their 'philological distinction', though he spent some time arguing against Madani's view.[121] Rather, Iqbal's conceptual problem with Madani was centred mainly around the same issue that he had addressed earlier in his antagonism towards Ahmadis, as he wrote candidly in a response to Madani published in the *Ehsan* on 9 March 1938:

> The real question is this: First, are the Muslims collectively a single, united and definite party founded on the Unity of God and the Finality of Prophethood as its basis, or are they a party which owing to the requirements of race, nation and colour can, leaving aside their religious unity, adopt some other social order based upon a different system and law?[122]

Iqbal concluded that the nationalism proposed by Madani violated Islam's revealed universal principles. Furthermore, Madani wrongly politicized and sacralized the concept of territory—well beyond its mere denotation as a geographical marker and particularly without recognizing any cosmopolitan principles that sustained it beyond the individual nation—and

[119] His article in the *Ehsan* of 21 February 1938 is reprinted in its original Urdu in: Muhammad Akbar Khan, ed., *Millat Aur Watan: Maulana Husain Ahmad Madni Aur Allama Sir Muhammad Iqbal Ki Behais* (Mutan: Adaara Rooznama Shams, 1938), 8–17.

[120] In contrast, the historian Barbara Metcalf, in her attempt to portray Madani as truly 'rational', has argued that he favoured a 'culturally plural and secular state': Metcalf, 'An Argumentative Indian: Maulana Husain Ahmad Madani, Islam and Nationalism in India.' Ibid., 82.

[121] Shamloo, *Speeches and Statements of Iqbal*, 210.

[122] Ibid., 212.

thus had violated the fundamental constitutional principles of *tauhid* and the finality of Prophethood. In this way, then, the main idea of unity among nationalist Muslims—although profoundly anti-colonial in their own right—just like Ahmadis, could potentially jeopardise the political solidarity of Indian Muslims:[123]

> The truth is that in the mind of Maulana Husain Ahmad and others who think like him, the conception of nationalism in a way has the same place which the rejection of the Finality of the Holy Prophet has in the minds of Qadianis. The upholders of the idea of nationalism, in other words, say that, in view of the present-day needs, it is necessary for the Muslim community to take up a position in addition to what the divine law has prescribed and defined for them for all time to come in the same way in which the Qadiani view, by inventing a new prophethood, directs the Qadiani thought into a channel which ultimately leads to the denial of the perfection and consummation of Prophethood in Muhammad.[124]

While the majority community could simply assert itself by declaring their default cultural position as secular, Iqbal feared, Islam would be reduced to a 'private affair' and eventually dissolve as a cultural and spiritual force.[125] Therefore, according to Iqbal, the participation of Indian Muslims in the Congress required them to depart from the basic 'prophetic mission' of Islam, and follow instead a set formula handed down to them by Congress leaders who largely consisted of non-Muslims, and in this way give up their potential for *ijtihad*.[126] This is key for Iqbal's comparison of Ahmadis with nationalist Muslims: their political missions relied not on a broad consensus of an a priori conceived political community, but rather on a somewhat blind trust in their political leaders. Just as the 'Qadianis' had denied the 'perfection' of Muhammad's Prophethood, Iqbal concluded, nationalist Muslims had provided its corresponding political articulation:

[123] Sherwani, *Speeches, Writings and Statements of Iqbal*, 254f.
[124] Shamloo, *Speeches and Statements of Iqbal*, 219.
[125] Khan, *Millat Aur Watan: Maulana Husain Ahmad Madni Aur Allama Sir Muhammad Iqbal Ki Behais*, 32.
[126] Sherwani, *Speeches, Writings and Statements of Iqbal*, 255.

> Prima facie, nationalism is a political concept while the Qadiani denial of the Finality of Muhammad is a theological question, but between the two there exists a deep inner relationship which can be clearly demonstrated.[127]

What Iqbal identified as the practical outcome of the Ahmadiyya political theology during the Kashmir Committee was a peculiar subjectivity that could never be fully aligned and stand in solidarity with a Muslim political fraternity, based as it was on some form of procedural consensus. It was not so much a mere theological issue on the finality of Prophethood, which Iqbal would have noted immediately during the lifetime of Ghulam Ahmad, but the translation of these values into quotidian political affairs that Iqbal took issue with. This was further made evident when Iqbal was confronted with accusations of inconsistency, regarding his view of the 'Ahmadiyya question'. In an open letter written in May 1935 Iqbal confirmed that it was the political performances of the Ahmadis that had led him to become increasingly disenchanted with their political vision:

> Not by their roots but by their fruits will you know them. If my present attitude is self-contradictory, then, well, only a living and thinking man has the privilege of contradicting himself. Only stones do not contradict themselves, as Emerson says.[128]

Iqbal's insistence on constitutionally excluding Ahmadis from all Muslim institutions that he was able to influence was, however, different from the attempts of the Hindu right to prevent Muslim candidates from taking up positions by putting in doubt their loyalty to the nationalist cause. While the proponents of Hindutva substantiated their claims for exclusion by blending notions of race, religion, and history, Iqbal's exclusion was based entirely on universal constitutional principles. Yet, the reaction to these accusations among nationalist Muslims and Ahmadis was strikingly similar: both refused to inhabit this space of ambiguity, which required them to continually perform under some set template of citizenship that could

[127] Ibid., 263.
[128] Ibid., 169.

never entirely remove the doubts regarding their loyalty to the nationalist aim.

Iqbal's short treatise, *Qadianism and Orthodox Muslims,* written in 1935, linked the Ahmadis more explicitly to their geographical birthplace, the Punjabi town of Qadian. In this pamphlet Iqbal argued that, in order to secure the survival of Islam in India, the time had come for the British government to constitutionally exclude Ahmadis from being recognized and counted as Muslims. Ahmadis should receive their own category in the census:

> The best course for the rulers of India is in my opinion, to declare the Qadianis [a] separate community from their *parent* [emphasis mine] community. This will be perfectly consistent with the policy of the Qadianis themselves and the Indian Muslims will tolerate them just as he tolerates the other religions.[129]

Whereas in earlier historical epochs, Iqbal argued, rulers could rely on violence to protect the communities living within their territories from dissolving, especially when confronted with internal reform movements, civilizational progress made it possible to institutionalize such antagonisms and articulate them through legal provisions. The crucifixion of Jesus on the insistence of Jewish tribes, Iqbal claimed, was a case in point. While the killing of the Messiah was to be lamented as an immoral act, because of its political necessity to secure 'solidarity' among the Jewish community and the democratic process they used to reach this consensus, no blame could fall upon the Roman rulers for having executed the crucifixion. For Iqbal, political truth acquired through establishing a consensus in a way replaces the (theological) truthfulness of Jesus:[130]

> The whole point is that the Romans considered themselves to be constitutionally bound to approve the decisions of the Jewish Synod in matters which the Jews, rightly or wrongly, regarded as dangerous to the integrity of their society. In the particular instance of the trial of Jesus it was unfortunate that the Romans, as a State, had to accept the

[129] Ibid., 166.
[130] Ibid., 167.

> Synod's demand in connection with a man, who, according to our belief, happened to be a genuine prophet. Had it been a case of a religious adventurer, nobody would have morally blamed the Romans for their approval of the Synod's decision or the Jews for their demand for trial. Personally I cannot deny the value of the constitutional protection given by the Romans to the Jews even though I take a different view of the moral valuation of that protection.[131]

The Romans certainly had their own ways of determining religious communities, and mechanisms to segregate them if the need demanded, Iqbal contended; their society was, however, not sufficiently developed to resolve such conflicts through legal means alone. The British, on the other hand, could in the current controversy with Indian Muslims quickly solve the Ahmadiyya question 'administratively', without resorting to any immediate violent measures.[132] This translation of violence into constitutional provisions that Iqbal proposed is distinct from the liberal principle to transform antagonism within societies into a scramble over legal rights, with the state as a neutral arbiter. For Iqbal, the legitimacy of the constitution rested solely on its recognition of the current composition of religious communities. Any shortcoming to detect the will of the people properly, then, was not just pointing towards the limitations of the liberal legal order, but also rendering the legal order invalid to exercise any authority over its Muslim population.

Therefore, if the law proved unable to reflect the will of the community in question regarding political survival, Iqbal was prepared to resort to violent means to uphold this form of public reason. Already in the 1920s, after the High Court ruled to acquit the publisher of the *Rangila Rasul* pamphlet, Iqbal had endorsed the violence that took place in its wake to protect the Prophet's honour, and eventually led to the murder of Rajpal by Ilm-ud-Din. It was the uneducated 'son of a carpenter', Iqbal had uttered when he first received the news of Rajpal's murder, who had delivered the crucial blow to protecting the Muslim community while the intellectual had just been sitting around and pondering the gravity of the

[131] Ibid., 174f.
[132] Iqbal, *Islam and Ahmadism: A Reply to Questions Raised by Pandit Jawahr Lal Nehru*, 76.

insult.[133] Iqbal furthermore insisted that this appeal for 'immediate separation' of the Ahmadis from their 'parent community' be implemented without any 'formal representation' of delegates to debate and discuss the matter at length, but rather just adopted as the will of the 'average Muslim'.[134]

Iqbal's direct appeal for government intervention into an otherwise loosely regulated religious sphere came as a surprise for many of Iqbal's interlocutors.[135] Some felt that Iqbal was willing to sacrifice the few liberties available to them in an otherwise repressive colonial system in exchange for a solidarity they found difficult to comprehend.

On 1 October 1935 the head of the Lahore wing of the Ahmadiyya, Maulana Muhammad Ali, published a lengthy reply to Iqbal's charges, in which he expressed his confusion about how exactly Iqbal wanted to establish Muslim solidarity with the help of government intervention and sectarianism. If one were to follow through with Iqbal's suggestions, Muhammad Ali held, they would necessarily splinter the community even further and not lead to any meaningful solidarity, as Iqbal envisioned it:

> In the first place he [Iqbal] begs the British Government to interfere in the religious controversy between the Qadianis and the orthodox and to help the majority against an insignificant minority, and in the second place he wants to bring about unity among the Muslims by making as many rifts in their ranks as the Qadiani doctrine of the continuance of Prophethood is likely to create, perhaps more.[136]

Regarding the theological issues that Iqbal had brought up against the Ahmadis, Muhammad Ali responded that there existed no contradiction in the belief of the finality of Prophethood and the messianic claims made

[133] Iqbal's initial reaction to the news that the publisher of the *Rangila Rasul* had been murdered was 'assin galla kar de rahe, te tirkhana da munda baazi lah gya' ('We just sat around and talked while the son of a carpenter took the lead'), as cited in Javed Iqbal, *Zinda Rood* (Lahore: Iqbal Academy Pakistan, 1984), 380.

[134] Sherwani, *Speeches, Writings and Statements of Iqbal*, 173.

[135] See only: Christopher Pinney, 'Iatrogenic Religion and Politics', in *Censorship in South Asia: Cultural Regulations from Sedition to Seduction*, ed. Raminder Kaur and William Mazzarella (Bloomington: Indiana University Press, 2009), 29–62.

[136] Maulana Muhammad Ali, 'Dr. Iqbal's Statement Concerning the Ahmdiyya Movement', *The Light*, 1 October 1935.

by Ghulam Ahmad. His claims did not translate into political authority of any sort.[137] Therefore, it was 'humiliating', Muhammad Ali wrote, that Iqbal could even attempt to justify the Romans for their crucifixion of Jesus, merely to keep alive a sense of solidarity among the Jewish community. Would the principle of maintaining solidarity, Muhammad Ali asked, override any other desire for enlightenment through revealed knowledge and spiritual development?[138]

In a reply to Muhammad Ali's letter and some other critical comments that had been published in *The Statesman*, Iqbal asserted that his intention was not to physically harm Ahmadis merely for their theological convictions. In any case, it was the responsibility of the government to detect such theological dissimilarities, and the assertion of this demand from Muslims was only needed because the government had so far failed to detach Ahmadis from 'orthodox' Muslims. Iqbal insinuated that this might have had to do with the fact that Ahmadis were still marginal in view of their membership numbers. However, once they had increased their membership numbers through their extensive missionary activities, there was no guarantee that Ahmadis themselves would ask to be regarded as a separate community, and in this way perhaps even do away with the small Muslim majority that existed in the Punjab province.[139]

Concerning the violent measures the Romans had adopted towards Jesus, Iqbal stated that, while morally it had been a mistake to crucify Jesus, as he 'happened to be a genuine prophet', politically it remained the only viable solution for the maintenance of solidarity among the Jewish community. As the Romans also lacked the administrative means to declare a religious community separate on constitutional grounds, their behaviour might therefore very well be justified politically.[140]

[137] While Iqbal compares Ahmad to the nineteenth-century Indian mystic Ramakrishna and insinuates that their claims should be studied through the lens of modern psychology, it remains astounding that he does not put much emphasis on discounting Ahmad's claims. Instead, Iqbal remains largely ambiguous about them, judging the truth claim of his message on the basis of the concrete political performances of Ahmadis: 'I dare to say the founder of the Ahmadiyya movement did hear a voice; but whether this voice came from the God of Life and Power or arose out of the spiritual impoverishment of the people must depend upon the nature of the movement which it has created and the kind of thought and emotion which it has given to those who have listened to it.' Sherwani, *Speeches, Writings and Statements of Iqbal*, 188.

[138] Ali, 'Dr. Iqbal's Statement Concerning the Ahmdiyya Movement.'

[139] Sherwani, *Speeches, Writings and Statements of Iqbal*, 173.

[140] Ibid., 175.

The British had the advantage, Iqbal repeated, that they could remove Ahmadis from the legally defined Muslim community, and in so doing solve the problem inherent in the dispute and bring the legal order in accord with the social realities on the ground. Iqbal was critical of liberal constitutionalism. He did not think that bring about 'harmony' for modern man. Iqbal remained somewhat hesitant to embrace liberalism, as he thought liberalism made 'man what he ought not to be'. Liberalism would eventually lead to the loss of religious identity.[141]

It was nonetheless this ostensibly liberal order that had to act in order to safeguard the interests of the minority. In India, Iqbal analysed, the future of each religious community rested solely on its 'solidarity', both as an aim of creating topographies of belonging and a concrete socio-psychological fact. The 'unfortunate result' of liberal policies adopted by the colonial state, Iqbal held, was that now any reformer without popular support could propose to 'set up any claim and carve out a new community for his own exploitation', as long as he remained a loyal subject to the crow and 'regular in the payment of taxes'.[142]

This was unacceptable for Iqbal. The danger that would arise from such liberal policies, he feared, would cause a complete 'disintegration' of Islam. Iqbal advised educated Muslims to learn from the 'average Muslim', who had intuitively understood the significance of 'these forces of disintegration'—he was most likely hinting towards the violent anti-Ahmadiyya campaigns that were carried out by the Ahrar in Kashmir—and not to remain aloof of this antagonism.[143] In order to prevent the erosion of their religious system, it was justified to leave the realm of legality and recover the legitimacy of the universal constitutional order that Iqbal had outlined, if necessary with the force of violence.[144]

Iqbal's statement provoked further reactions from both the Lahore and Qadian sections of the Ahmadiyya. In several newspaper articles the theological concept of the 'finality of prophethood' was discussed, bringing it into conformity with the claims made by Ghulam Ahmad. The *Paigham-e-Sulha*, the daily newspaper of the Lahore section of the Ahmadiyya, wrote that Mirza Ghulam Ahmad had never claimed Prophethood for

[141] Ibid.
[142] Shamloo, *Speeches and Statements of Iqbal*, 199.
[143] Ibid., 201.
[144] Ibid.

himself and that Lahoris therefore only regarded him as a divinely inspired religious reformer.[145] The *Al Fazl* newspaper from Qadian also held that while the aspect of receiving Divine revelations made Ghulam Ahmad a *nabi*—a prophet—this would not translate into his position as a law-bearing prophet like Muhammad or Moses. Significantly, their belief in his titular Prophethood did not contradict any Islamic theological principles.[146]

While both Ahmadi fractions agreed that religious rules and norms required proper implementation into the legal orders of countries inhabited by Muslims, they insisted that nobody could separate them from Islam. For one thing, they considered themselves Muslims. Moreover, they argued that Iqbal had fallen prey to the very Westernization he so vehemently critiqued in his writings. Iqbal had thus committed a much bigger fallacy than the violation of the principle of the finality of Prophethood. Iqbal's belief that the perfection of Islam lay in the abolishment of Prophethood after Muhammad was a veiled attempt to promote the Western concept of secularism in an Islamic guise:

> The danger, however, involved in the interpretation of Allama Iqbal, clothed as it is in philosophical expressions, is too subtle for the layman to detect at a glance. There are two more factors that make this danger all the more dangerous. It has behind it the authority of a great and popular personality as Allama Iqbal undoubtedly is and secondly, the view taken by him is quite after the heart of the average educated man with whom westernism is the last word on all things—on fashion of thought and faith as much as on fashions of dress and toilet. Dr. Sir. Muhammad Iqbal's views tend to put a premium on that tendency towards mad modernisation and notwithstanding all out esteem and regard for out national poet, we feel we must strike a note of warning against this danger.[147]

The historian Faisal Devji has argued along similar lines. He has suggested that Iqbal's thought reveals a modernist desire to secularize Muhammad.

[145] 'Dr. Mohammad Iqbal Par Roznama "Statesman" Ka Eek Aham Sawaal', *Paigham-E-Sulha*, 6 July 1935.
[146] 'Muhammad Iqbal Ka Statement', *Al Fazl*, 11 July 1935.
[147] 'Dr. Iqbal's Statement III', *The Light* (Lahore, 24 June 1935).

Iqbal did this by depicting him as standing in equal parts between an old Magian world, where revelation was still possible, and a modern, secular, or rational world, where supernatural activity ceased to exist.[148]

In reply to these accusations Iqbal directed his readers to carefully examine his earlier statements on the concept of *khudi*, which, he asserted, very much allowed for a continuance of revelation, however, insofar as this continuance was not politically harmful to the institution of solidarity within Muslim communities. To conceive of his concept of the old Magian and modern world within the context of 'serial time', where historical moments are neatly lined up after one another in a linear temporal continuum, Iqbal countered, would be a gross misunderstanding. For Iqbal, the Magian and the modern always existed side-by-side and would continue to creatively meet each other in the space of revelations and mystic experiences. So it not surprising that it was again the historical process, specifically the philosophy that underlies it—or the lack thereof—that Iqbal evoked when asked whether any new religious reformers could appear after Muhammad:

> While I do believe in man's spiritual capacity and the possibility of the birth of spiritual men, I am not sure that the historical process is so mathematical as *The Light* thinks. We can easily confess that it is beyond our intellectual capacity to understand the nature of the historical process. All that I can negatively say is that it does not appear to me to be as fixed and mathematically exact as The Light thinks. I am rather inclined to Ibn Khaldun's view which regards the historical process as a free creative movement and not a process which has already been worked out with definite landmarks.[149]

From a theological perspective, Iqbal leaves the creative meeting point between de-historicized notions of 'modern' and 'ancient' unresolved. Instead, he remodels the finality of Prophethood as a political concept and universal constitutional principle. Iqbal believed that the notion of the finality of Prophethood allowed for the breaking away of Indian Muslims from the peculiarities of their history. It allowed them to position

[148] Devji, *Muslim Zion: Pakistan as a Political Idea*, 157.
[149] Sherwani, *Speeches, Writings and Statements of Iqbal*, 168.

themselves anew as one unit to confront the political forces of the twentieth century. While Iqbal had identified Ahmadis as political enemies, there was very little that was objectionable in their broader moral or social conduct. In other words, Muslims should not translate their political antagonism into social stigmatization. This point is evident from Iqbal's attitude towards individual members of the Ahmadiyya community, for instance, the chief editor of *The Light* and board member of the Anjuman Hamayat-i-Islam, Mirza Yakub Beg. Beg had heavily criticized Iqbal for his statements against the Ahmadiyya, both in his correspondence and in public articles.[150]

Iqbal continued with his political agenda to reconstitute the Muslim community during his presidency of the Anjuman Hamayat-i-Islam in February 1936. In a public announcement shortly after his election to the presidency of the Anjuman, Iqbal stated that the concept of the finality of Prophethood was the only marker to determine whether somebody could participate in a political (*siyaasi*) Muslim institution.[151] The popular will (*raye aam*) of Muslims was such, Iqbal asserted, that Muslims could no longer tolerate working together with Ahmadis under the same organizational umbrella.[152] In a similar move to that of Iqbal with the All India Kashmir Committee, Iqbal resolved and reorganized the Anjuman, this time without Ahmadis as members.[153]

Yakub Beg was disturbed by what he perceived to be a fundamental betrayal on Iqbal's part and therefore repeatedly inquired if Iqbal considered him to be a Muslim or a *kafir*.[154] In reply to his question, although Beg had passed away shortly after his exclusion from the Anjuman, Iqbal wrote the following letter to the head of the Lahori section of the Ahmadiyya:

> My Dear Maulvi Muhammad Ali,
> I have just read in the *Inqalab* newspaper that Doctor Mirza Yakub Beg has died and am deeply saddened by this. He was a prime example of

[150] Mirza Masood Beg, *Aaeenae-Sidq Wafa: Doctor Mirza Yakub Beg Sahib* (Lahore: Ahmadiyya Anjuman Ishaat-e-Islam Lahore, 1939), 47–53.
[151] 'Anjuman Hamayat-I-Islam Lahore Ka Elaan', *Paigham-E-Sulha*, 11 February 1936.
[152] 'Hamayat-I-Islam Ki Tabdili', *Paigham-E-Sulha*, 2 March 1936.
[153] 'Anjuman Hamayat-I-Islam Lahore Ka Elaan.'
[154] 'Hazrat Dactar Mirza Yakub Beg Sahib Ka Intakaal', *Paigham-E-Sulha*, 15 February 1936.

> moral perfection (sharafat ka pakeeza majasm) and his nature (fitrat) was always inclined in the service of mankind. May Allah bless him for the good deeds he has conducted in his life. I do not have the contact details of his son, but trust that you will pass my condolences on to him. I have been suffering from a bad cold otherwise I would have participated in the funeral prayers and delivered my condolences in person.
>
> Wassalaam, Muhammad Iqbal[155]

It appears that Iqbal still regarded Ahmadis as Muslims, at least for all ritual purposes, and wanted to participate in the funeral prayer of Yakub Beg. Politically, however, their exclusion from the Muslim community was a crucial step in the establishment of solidarity and political unity among Indian Muslims.

A recent study on the political philosophy of Iqbal has suggested that Iqbal's political thinking, no different from many other colonial intellectuals, remained deeply embedded in the ideological force of British colonial rule.[156] The pressure that colonialism exercised, this view argues, shaped a peculiar colonial subjectivity. This subjectivity was trapped in an inescapable ideological discourse.[157] From this perspective, Iqbal's Islam is structurally similar to other holistic ideological formations, be it nationalism, communism, or fascism, as the single way to counter them.[158] From this background, Iqbal's antagonism towards Ahmadis has been explained away based on their support for the continuation of colonial rule. As the political theology of the Ahmadiyya ostensibly carried elements of a Nietzschean slave mentality, the argument goes, Iqbal believed it to be conducive to arresting and sedating the Muslim political subject in the performance of anti-colonial acts. This argument seems to carry little weight, however, in light of the earlier outlined development of Iqbal's concept of *khudi* and his involvement in anti-colonial activities in

[155] Muhammad Iqbal to Muhammad Ali, 13 March 1936, in Beg, *Aaeenae-Sidq Wafa: Doctor Mirza Yakub Beg Sahib*, 89.

[156] Sevea, *The Political Philosophy of Muhammad Iqbal: Islam and Nationalism in Late Colonial India*.

[157] This is of course not a new point and the discursive construction of colonial subjectivities has been of great interest to postcolonial theory; see only: Homi K. Bhabha, 'Of Mimicry and Man: The Ambivalence of Colonial Discourse', *October* 28 (May 1984): 126.

[158] Sevea, *The Political Philosophy of Muhammad Iqbal: Islam and Nationalism in Late Colonial India*, 28.

cooperation with the Ahmadiyya well into the 1930s. A sudden discovery of anti-colonialism did not influence Iqbal's turn against the Ahmadiyya. Instead, this chapter has suggested, that it was a more fundamental theorization of how to make sense of Muslim nationality that could at once build on the Indian national and the colonial state.[159]

The ways in which Iqbal in turn envisioned a Muslim political fraternity in India took the form of *Schicksalsgemeinschaft*, a community grounded in emotional and historical bonds that had been fundamentally unsettled through the impact of modernity and colonial rule. To recover, the particularity of being Muslim was not a mere strategic game that involved liberal forms of representation and lobbying for cultural rights. In Iqbal's view, it was the discovery of internal enmity that could truly convert Indian Muslims from a mere cultural unit into a political fraternity that was removed from the majoritarian society. In other words, through the rejection of the messianic claims of Mirza Ghulam Ahmad, Indian Muslims could depart from the constitutional liberalism prescribed by the colonial state, and institute an open-ended project of Islamic democracy instead. The establishment of such a democracy, for Iqbal, necessitated the replacement of personal authority, held, for instance, by the Ottoman caliph, through more inclusive and participatory institutions such as legislative assemblies. However, this was not a wholesome replacement of the sacred with the rational along Kantian lines. Rather, the universality that Iqbal ascribed to the two Divine principles deduced from the Qur'an—the unity of God and the finality of Prophethood—could not be done away with through the processes of *ijtihad* and *ijma*. Besides, the legal order for Iqbal had to reflect the particularities of societies and defend them through combative constitutions that could detect and direct antagonism towards those parts of society, which threatened the solidarity—or political existence—of the community.

Iqbal's envisioning of such combative forms of republican constitutionalism could be read in the wider context of anti-liberal thought in the early-twentieth century. A contemporary of Iqbal, the political theorist Carl Schmitt, criticized liberalism and the constitutional democratic

[159] In his Presidential Address at the annual session of the All India Muslim Conference at Lahore on 21 March 1932, Iqbal stated: 'The present struggle in India is sometimes described as India's revolution against the West. I do not think it is a revolt against the West': Shamloo, *Speeches and Statements of Iqbal*, 42.

order it brought with it on similar grounds. For Schmitt, the liberalism practised in the Weimar Republic—the short-lived experiment in democracy between the two world wars in Germany—had attempted and failed to transform the antagonism inherent in society into participatory practices of the state. In this regard the state had not recognized the importance of enmity, with its concrete possibility for violence as a constitutive element for the establishment of political communities. Schmitt argued that society and state could never be fully separated. Therefore, the antagonism in society had to be adequately manifested within the political sphere. For Schmitt, this was the only way to bust the somewhat romantic myth that the state was a 'neutral' body, merely responsible for juggling different interest groups.[160]

The Limits of Liberalism

The centrality of Muslim solidarity in Iqbal's political and legal thought is further visible in his only lengthy engagement with the Congress leader Jawaharlal Nehru in the summer of 1935. Nehru had questioned the validity of Iqbal's call for a constitutional exclusion of Ahmadis from the Muslim fold, on both theological and liberal grounds. Writing from his prison cell in Almora, Nehru pushed Iqbal to explain why he had specifically targeted the Ahmadis, yet remained remarkably kind towards modernist movements such as the Young Turks or the followers of the Aga Khan.[161]

For the outside observer, Nehru stressed, these movements seemed to have deviated much further away from what Iqbal might have considered 'orthodox Islam'.[162] Nehru held that Turkey, Iran, and Egypt in their own ways had, through the adoption of racial or geographic nationalism, largely broken away from most 'orthodox' principles, and Iqbal as a 'traditional' thinker must similarly regard such 'modernist' tendencies as having 'ceased to be Islamic countries in any sense of the word' as well.[163] Or was the desire for exclusion, Nehru asked pointedly, merely to produce

[160] Schmitt, *Der Begriff Des Politischen*.
[161] Jawaharlal Nehru, 'The Solidarity of Islam', *The Modern Review* 58, no. 5 (1935): 504–507.
[162] Ibid.
[163] Ibid., 506.

some form of consensus among Indian Muslims that stood in opposition to the inclusive nationalist project and policy of the All India National Congress?[164] For Nehru, Iqbal's exclusionary tendency amounted to little more than a continuation of the well-known elitist project of 'Anglo-Moslem unity', where the solidarity of Islam was only evoked to distract from the exploitative feudal system that was targeting the economically weaker section of Muslim society.[165]

Allama Iqbal's membership of the 'Council of Peers and Moslem Leaders', a political lobby group to promote cultural rights for Indian Muslims, alongside the Aga Khan, was indicative, Nehru reasoned, of the fact that the Ahmadiyya dispute was at its core only a novel articulation of elitist socio-political agendas. The crucial factor for Nehru was that Iqbal himself had remained largely passive towards colonial rule and, even in the case of the Ahmadis, was asking the government for a constitutional amendment and not for independence and sovereignty altogether. Some of the institutions of which Iqbal had been a member indeed justified Nehru's assumption, particularly his proximity to figures such as the Aga Khan, who openly promoted colonial loyalty.[166] It was thus an elite conspiracy, Nehru concluded, that lay at the heart of the Ahmadiyya issue. This would explain Iqbal's demands for their legal exclusion, while still promoting the policies of the Aga Khan—who, after all, could be placed far more clearly in the Magian pre-Islamic world:

> But the really remarkable fact is that the spiritual head who supports and encourages these practices is a modern of moderns, highly cultured in western ways, a prince of the turf, most at home in London and Paris. Only a remarkable personality could successfully carry this double burden. The Aga Khan not only does so with supreme ease, but he adds to it many public and political activities as well as the leadership of the Indian Muslims. But the question that is troubling me, as a result of reading Sir Mohamad Iqbal's statement on the solidarity of Islam, is how all this fits in with that solidarity. It may be perfectly justifiable to spend the money of the faithful on racing; that after all is a minor

[164] Ibid.
[165] Ibid., 507.
[166] Ibid.

> matter. But is the Aga Khan's sect a partner in that Islamic solidarity or not?[167]

Nehru's framing of Iqbal as a supporter of colonial rule pressed the latter into a lengthy response titled 'Islam and Ahmadism', published in January 1936 in the journal *Islam*. Here Iqbal claimed that it was the Ahmadiyya doctrine that was deeply invested in upholding the colonial enterprise. As a minority within a minority, they had far more to lose with the withering away of colonial rule than Muslims, who could, at least in the majority of provinces, fend for themselves. In this context, then, the accusation of Iqbal against the Ahmadiyya—as British spies planned to do away with the small Muslim majority in the Punjab—could be read as his own defence against Nehru's accusations that Iqbal himself was an orthodox reactionary with profoundly anti-national sympathies. However, while Iqbal critiqued the Ahmadis for being supporters of colonial rule, he also continued to link them with the evidently anti-colonial nationalist movement. This was not a contradiction, Iqbal argued, as both attempted to wish away the growing self-realization of Indian Muslims as a political force. Like the nationalist leaders of the Congress, Ahmadis too were practically speaking for a majority that they did not represent in any real sense:

> I am inclined to think that my statement on Qadianism––no more than a mere exposition of a religious doctrine on modern lines––has embarrassed both the Pandit and the Qadianis, perhaps because both inwardly resent, for different reasons, the prospects of Muslim political and religious solidarity particularly in India. It is obvious that the Indian Nationalists whose political idealism has practically killed his sense for fact is intolerant of the birth of a desire for self-determination in the heart of North-West Indian Islam. He thinks, wrongly in my opinion, that the only way to Indian Nationalism lies in a total suppression of the cultural entities of the country through the interaction of which alone India can evolve a rich and enduring culture.[168]

[167] Ibid.
[168] Iqbal, *Islam and Ahmadism: A Reply to Questions Raised by Pandit Jawahr Lal Nehru*, 10.

Yet for Iqbal, it was not enough to merely equate Indian nationalism with the Ahmadiyya movement as major existential impediments to the political awakening of Indian Muslims, notwithstanding their stance towards colonial rule. When addressing Nehru's argument that Turkey under Mustafa Kemal had outlawed polygamy, a practice that was specifically permitted in the Qur'an, Iqbal made a simple but crucial distinction. There were constitutive aspects of Islam—again, he could think of only 'two propositions': *tauhid* (unity of God) and *khatam-un-nabuwat* (finality of Prophethood)—and 'minor points' or guidelines. Through the practice of ijtihad, Muslim could change these minor points.[169] But the two universal principles formed the nucleus, for Iqbal, around which the free exercise of *ijtihad* could take place.[170]

Iqbal went further in his defence of the Young Turks and the Aga Khan by insisting that their projects of modernization were entirely in line with these two principles of Islamic orthodoxy. For one, the Turkish nationalist movement was justified to abolish the Caliphate. It was, after all, only a reminder of an Islamic system reminiscent of imperialism and not the modern 'spirit of democracy'.[171] While their adoption of the Swiss Civil Code, in all legal matters governing civic life, might constitute 'an error of judgement', it did not in any way violate the fundamental principle upon which Islamic solidarity was based.[172] If anything, the hidden 'forces of Islam' had acted through Mustafa Kemal, Iqbal suggested, in his attempt to break away from the influence of the mullahs and awaken Turkey from its 'dogmatic slumber'.[173]

Iqbal was largely keeping in line with his earlier statements on Turkey when answering a question if prayers could be performed in languages other than Arabic. Iqbal, after giving much consideration to such acts of translation, ultimately rejected them on the basis that such practices would probably strengthen the nationalistic sentiments to which he was so vehemently opposed. While the idea of Islam as a global political force had been exhausted in it imperial form, it was still very much to be reckoned with as a universal ethical corrective for political systems

[169] Ibid., 17.
[170] Ibid., 19.
[171] Ibid., 34.
[172] Ibid., 46.
[173] Ibid., 47; Iqbal, *The Reconstruction of Religious Thought in Islam*, 134.

in the countries that Muslims inhabited. In this sense, even if Muslims should form a union—for instance, by joining a World League of Muslim States—their distinct national heritage would remain.[174] Nationality in this sense was a political requirement to participate in a global political system.[175] For Muslim majority countries such ideas of nationalism were not harmful to Muslim communities, as any legislative decision was Islamic as long as it did not violate the two universal principles. For countries where Muslims were in the minority, however, particularly when the majority religion was non-Abrahamic and did not allow for any social intermixing, under which Iqbal understood marriage and reproduction, it was crucial to keep the 'spirit of Islam' alive in establishing a distinct Muslim 'national life', albeit only temporarily as a cultural force.[176]

> It [nationalism] becomes a problem for Muslims only in countries where they happen to be in a minority, and nationalism demands their complete self-effacement. In majority countries Islam accommodates nationalism; for there Islam and nationalism are practically identical; in minority countries it is justified in seeking self-determination as a cultural unit. In either case, it is thoroughly consistent with itself.[177]

Framing the necessity of the exclusion of the Qadianis in the biological language of survival, Iqbal continued to argue, Nehru had fundamentally misread this question as one of individual *morality* measurable along the binaries of 'good or bad'.[178] However, the Ahmadi question was one of political significance to Indian Muslims and therefore had to be measured with the binaries of 'life-giving or life-destroying', of self-preservation, or death. In his response to Nehru, Iqbal put this in the following words:

> The folly of our preachers of toleration consists in describing the attitude of the man who is jealous of the boundaries of his own faith as one of intolerance. They wrongly consider this attitude as a sign of moral inferiority. They do not understand that the value of this attitude

[174] Iqbal, *Islam and Ahmadism: A Reply to Questions Raised by Pandit Jawahr Lal Nehru*, 54.
[175] Muhammad Iqbal, 'On Turkish Prayer', *The Light*, 16 February 1932.
[176] Iqbal, *Islam and Ahmadism: A Reply to Questions Raised by Pandit Jawahr Lal Nehru*, 52.
[177] Ibid.
[178] Ibid., 15.

> is essentially biological. Where the members of a group feel, either instinctively or on the basis of rational argument, that the corporate life of the social organism to which they belong is in danger, their defensive attitude must be appraised in reference mainly to a biological criterion.[179]

Regarding Nehru's remark about Iqbal's old friend the Aga Khan and his material excesses, Iqbal merely stated that the Aga had was firmly rooted in orthodoxy. He had not violated the finality of Prophethood, the sole marker of Muslim belonging. The concept of the perpetual imamate might endow the Aga with a superior spiritual position in the eyes of his followers, Iqbal defended his position. Still, his authority was neither based on nor derived its legitimacy from, being a recipient of 'divine revelations'.[180]

Conclusion

To summarize, this chapter has argued that Iqbal's constitutional thought helped to shape the notion of Indian Muslims as a distinct political fraternity from the Levant, the colonial state, and the Congress. The Ahmadiyya question was the arena in which Iqbal brought together his philosophical, legal, and political thinking. Iqbal's refusal to integrate non-Muslims into his proposed republican framework, as is evident from his engagements with political authority and the legislative process of *ijtehad* and *ijma*, suggest that it was indeed a separatist message that lay at the heart of his political vision. In short, Iqbal's antagonism towards the Ahmadiyya was not born out of anti-colonialism or some form of opportunism to carve out a space in the colonial political complex for himself. Instead, this chapter has argued that Iqbal's antagonistic gestures find deep resonance with crucial aspects of his political thought. These range from political authority and solidarity to constitutional republicanism. This chapter has further found that Iqbal was aware that antagonisms within societies and religious communities, terms that for Iqbal largely overlapped in India, could not easily be absorbed through liberal political practices. If such

[179] Ibid., 14.
[180] Ibid., 56.

antagonism went unchecked, however, it would lead to the dissolution of solidarity among Indian Muslims. For the survival of religious communities, the legal order had to recognize theological differences. The legal order also had to implement any religious consensus brought before it.

In conclusion, Iqbal's combative constitutionalism ushered in a new political language for Muslim unity in India. Iqbal held that the legal order had to reflect the will of the popular sovereign: the law had to recognize itself within societies and implement its current values and principles, as long as they took into account the universal constitutional principles of *tauhid* and the finality of Prophethood. More than the spiritual father, Iqbal was Pakistan's primary constitutional architect.

6
Conclusion

This book has explored the potential of legal antagonism as a political imaginary for colonial subjects. On the one hand, it has considered how conflicting strategies rupture and foreclose any simple folding of political thought into the conventional matrix of interest politics and, on the other hand, how legal antagonism played out in concrete ways during an eventful decade-and-a-half in British India. More than just an appeal to imperial justice, legal antagonism opened up paths to expose colonialism's false promises. It shows how religion entered legal discourses and courtrooms. However, it points out that Muslims ultimately failed to solve their issues with Sikhs and Hindus through contractual deliberations. Instead, Muslims opted to resolve conflicts in the political arena. Representation of religion in politics became vital in confronting the more essential questions of nationality and territoriality. These debates gave early contours to the idea of Pakistan.

The chapters have demonstrated how the law became a central trope through which Indian Muslims made sense of community, nationhood, and justice. What ties the events outlined in this book together is the experience of Indian Muslims with the colonial legal order. The prevailing historiographical paradigm suggests that there was a lack of constitutional debate among Indian Muslims in the decades leading up to partition. This book has challenged this claim and outlined how Indian Muslims deduced normative rule from Islamic laws, moulded them into their conceptual frameworks, and engaged creatively with colonial legislation. It has been found that the codification of Islamic laws allowed Muslims to contest, debate, and reason about norms and values. However, it also allowed new forms of antagonisms to arise. These antagonisms were crucial in mobilizing Indian Muslims for political ends.

Legal antagonism did not come to a sudden halt with the Lahore Resolution. Instead, what we can learn from the negotiations between the

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Congress and the League is that they return to the fundamental issues discussed in this book. The question of Muslim nationalism remained closely linked to the colonial legal order, arguably by way of departing from the language of contract and justice towards freedom and sovereignty. The following offers a brief sketch of the afterlife of the themes analysed in this book.

Epilogue: The Making of Pakistan

> There is much talk about dynastic rights and the like. While we have accepted the continuance of the ruler as a constitutional head, it must be made perfectly clear that the only ultimate right we recognise are the rights of the people. Everything else must give way to them. Sovereignty must reside in the people and not in any individual.
>
> —Jawaharlal Nehru addressing the General Council of the All-India (Princely) States Peoples' Conference in New Delhi, 8 June 1946.[1]

> The Congress thinks that it is going to walk into the interim government and bypass the Muslim League. It is welcome to go there. We are not frightened by that and we know how to deal with that. They are talking through their hats when they talk of turning the Constituent Assembly into a sovereign body––the Constituent Assembly that is being summoned by the Viceroy, appointed by the British Government. Is it going to be turned into a sovereign body by the bravado and the childish statements of Pandit Jawaharlal Nehru?
>
> —Muhammad Ali Jinnah's speech at the All India Muslim League Council in Bombay, 27 July 1946.[2]

[1] 'States Peoples' Voice Must Be Heard: Pt. Nehru On New Constiution', *The Times of India*, 10 June 1946.

[2] Jinnah's speech has been reprinted in full: Anil Chandra Banerjee and Dakshina Ranjan Bose, eds., *The Cabinet Mission in India* (Calcutta: A. Mukherjee, 1946), 360.

The Cabinet Mission Plan of 1946,[3] a power-sharing agreement for the continuation of an Indian Union after an upcoming retreat of the British in the aftermath of World War II, constitutes an example of how Jinnah advanced the two-nation theory 'like a constitutional lawyer'. According to Ayesha Jalal, he did this to dissolve the unitary structure of central authority in British India. Another motivation of Jinnah was his hope that a reconstitution at the centre would warrant the grouping together of Muslim provinces into strong autonomous states.[4] In the standard view, Jinnah was eying parity for Indian Muslims in the central assembly. For this reason, Jinnah approved the so-called May proposal of the Cabinet Mission Plan. Why else would he continue to negotiate with Congress right before and even after the materialization of Pakistan?[5]

The main points of the Mission's Plan, which Azad, Jinnah, Gandhi, and Viceroy Lord Wavell emphasized, went beyond a mere legal agreement between communities. They concerned the questions of groupings and sovereignty.[6] Jinnah held that the Muslim majority provinces should be grouped 'unfettered by the Union in any way'. Once they had acquired

[3] The Labour government decided on 17 February 1946 to send a Mission of Cabinet members to India to resolve the details of a transfer of power. The Mission was made up of Lord Pethick-Lawrence, Sir Stafford Cripps, and Mr A. V. Alexander. These efforts were largely welcomed by the two major political parties, with both Azad, the president of the Congress, and Jinnah, the president of the League, expressing their pleasure over the general steps taken in London. Jinnah was, however, somewhat irritated because Prime Minister Attlee had referred to Muslims as a 'minority' as opposed to a 'nation'. The relevant passages of the Cabinet Mission's proposal that were heavily contested: '5. This consideration did not, however, deter us from examining closely and impartially the possibility of a partition of India; since we are greatly impressed by the very genuine and acute anxiety of the Muslims lest they should find themselves subjected to perpetual Hindu-majority rule. The feeling has become so strong and widespread amongst the Muslims that it cannot be allayed by mere paper safeguards'; and '15. (3) All subjects other than the Union subjects [Foreign Affairs, Defence, and Communications] and all residuary powers should vest in the Provinces. (5) Provinces should be free to form Groups with executives and legislatures, and each Group could determine the Provincial subjects to be taken in common.' See only: Statement by the Cabinet Delegation and His Excellency the Viceroy (as issued in New Delhi on 16 May 1946) IOL/L/P&J/43, 54–55, British Library, London.

[4] Ayesha Jalal, *The Sole Spokesman: Jinnah, the Muslim League and the Demand for Pakistan* (Lahore: Sang-e-Meel Publications, 1999), 241.

[5] This somewhat cynical line of reasoning that the demand for Pakistan was nothing but a 'bargaining counter' finds its earliest expression in the Congress' vilification of Jinnah and can, for instance, be seen in Maulana Azad's recollection of the Cabinet Mission Plan in: Maulana Abdul Kalam Azad, *India Wins Freedom: An Autobiographical Narrative* (Hyderabad: Orient Longman Limited, 1988), 183.

[6] The Indian Provinces and the Princely States were put into a three-tier system of groups. All groups involved in the negotiations had a different understanding of what these groups represented and how they had come into being. Section A included the following provinces: Madras, Bombay, Orissa, U.P., C.P., and Bihar. Section B: Punjab, NWFP, Sind, and Balochistan. Section C: Bengal and Assam. Banerjee and Bose, *The Cabinet Mission in India*, 386.

a sovereign existence of their own, if only for a logical second, they could, and indeed would, through the setting up of a Constituent Assembly, transfer some powers back to the centre. In this way, India could stay united for at least another ten years. As the Plan further outlined, the provincial state would have the possibility to decide after a decade if they wanted to remain part of their assigned groupings. The duties and responsibilities of the centre would be limited to foreign affairs, defence, and communication.

On 20 May 1946, Lord Pethick-Lawrence wrote to Maulana Azad, the Congress President and leader of the delegation on behalf of his party that the final decision over the future constitution of India could not rest with a Constituent Assembly alone. While there was 'naturally no intention to interfere with' the Assembly proceedings, or to 'question its decision', the final draft of the constitution would ultimately have to be approved by the British 'Parliament'. The approval would be made conditional on the fulfilment of two provisions: first, that the rights of 'minorities' were sufficiently protected; and, second, that there was a 'willingness' to cooperate with London in all 'matters arising out of the transfer of power.'[7]

Maulana Azad had earlier shown his unwillingness to accept the British as an umpire in the Congress' negotiation with the Muslim League. In his statement regarding the proposal made by the Cabinet Mission, for instance, the suggested grouping of states into separate sovereign units, Azad noted that the 'principle' point was to acknowledge that 'this Constituent Assembly' was a 'sovereign body'. Therefore, all its decisions, even and especially if they departed from the Mission's suggestions, had to be regarded 'as final decisions'. They would 'automatically take effect'.[8] The Assembly could, however, Azad stressed in the resolution passed by the Congress Working Committee on 24 May 1946, take into careful consideration that majority decisions concerning 'certain communal matter[s]' are not imposed upon 'major communities', but passed only with their consent.[9] Significantly, for Azad, the sovereignty

[7] Lord Pethick-Lawrence to Maulana Azad, 22 May 1946, as compiled in Ibid., 163.
[8] Maulana Azad to Lord Pethick-Lawrence, 20 May 1946, in Ibid., 158–159.
[9] The Congress Working Committee's Resolution, 24 May 1946, in Ibid., 165.

endowed upon the Constituent Assembly came from the Indian people, who would vote for their provincial delegates in free and fair elections, and was not derived from an act passed by the British Parliament.

For Gandhi, who had participated in the deliberations of the Cabinet's Plan in Simla, it was worthless studying the Plan's provisions line by line. The legal document was not binding. Assembly members and citizens should understand it as an 'appeal and an advice'. Gandhi thought, 'there was no compulsion in it'. Therefore, the procedural rules determined in the Cabinet's proposal could end up looking entirely 'different' if a sovereign Constituent Assembly decided on these matters. More than in the legal language, then, Gandhi insisted the Assembly should take as its binding principles 'honour and necessity'.[10] Particularly in the case of Sikhs, Gandhi concluded, who 'only had the Punjab to call their home', the grouping with Sindh and Baluchistan and the Frontier Provinces against their will constituted a grave injustice.[11]

On 5 June 1946, when Jinnah impressed upon the members of the Muslim League Council, at a special meeting held in New Delhi, to 'accept the British Cabinet Mission's proposal', he did so after spending almost two hours arguing for the importance of the foundation of Pakistan.[12] There was 'no other goal', Jinnah declared from the podium, 'except the establishment of Pakistan', a place that would at once put an end to 'Muslim suffering' and allow for the independence of India and 'peace'. The 'end' of the Cabinet Mission Plan, for Jinnah, was nothing more than the 'creation of Pakistan', notwithstanding differing interpretations that the Congress might offer. The plan only had meaning when Indian Muslims counted as a sovereign nation. This sovereign Muslim nation would then enter a trans-national agreement with the Indian union. In the same spirit the League's resolution, highlighted that they accepted the Cabinet proposal's resolution of the 'Indian constitutional problem', only 'inasmuch as the basis and the foundation of Pakistan' were 'inherent in the Mission's plan', by 'virtue of the compulsory grouping of the six Muslim provinces, in the

[10] Gandhi's analysis was written on 20 May 1946 and published in *Harijan*, 26 May 1946, in *The Collected Works of Mahatma Gandhi: XCI (May 1946–August 1946)* (New Delhi: The Director, Publications Divisions Ministry of Information and Broadcasting Government of India, 1978), 1.

[11] Ibid., 2.

[12] Jinnah's Speech at the Muslim League Council, 5 June 1946, in Ibid., 189.

sections B and C' and thus making them appear as a separate sovereign entity from the get-go.[13]

Indeed, it was regrettable, Azad summarized the experience of his negotiations over the past three months, that there was no 'interim government' to create an 'atmosphere in which the Constituent Assembly can function with a sense of full freedom and authority'. However, even without a direct link to government, the 'purely Indian Assembly elected on Indian votes alone' would have the sovereign power to decide on the 'shape of India's future Constitution'.[14] For Azad, it was crucial to view sovereign authority as a procedural aspect derived from the representative and democratic nature of the Constituent Assembly. As sovereignty was with the people, the election of their representatives was a symbolic act of transfer. Through voting, citizens conferred sovereignty to the Assembly. It was therefore consequent that Azad regarded the question of the grouping of several states into one as crucial. He wanted the Assembly to address this question at the earliest point:

> As soon as the Constituent Assembly meets, it will, according to the proposal of the Cabinet Mission, divide itself into three Committees. Each Committee will be composed of members from provinces in the appropriate section and will together decide whether to form a Group or not. Section 15 of the Cabinet [Mission's] Proposal have clearly recognised the rights of provinces to form Groups or not. The Cabinet Mission intend that the provinces should exercise this right at a particular stage. (…) Either at the very beginning before the Group Constitution has been framed at all or at the end after they have examined the Group Constitution as it has emerged from the Committee of the Constituent Assembly. (…) If a province decides to remain outside the Group from the beginning it cannot be compelled to come in.[15]

Jinnah fundamentally disagreed with such a reading of sovereignty. As outlined in the earlier chapters, for Jinnah, sovereignty was not derived

[13] Resolution of the Muslim League Council, 6 June 1946, in Ibid., 191.
[14] 'Basic Principle of Congress: Mr. Azad's Statement', *The Times of India*, 26 June 1946.
[15] Ibid.

from the procedural aspects of democracy. Instead, it came from the ability of a nation to stand up and fight for its survival. Therefore, it was crucial for Jinnah that the Interim Government formed one unity with the 'Constituent Assembly' and was an 'integral part of the whole scheme'.[16] If the Viceroy was not able to form an interim government immediately, Jinnah asserted in a letter to Lord Wavell on 28 June 1946, the elections to the Constituent Assembly had to be 'postponed'.[17] Lord Wavell rejected this suggestion outright. Instead, he proceeded to institute a 'Care-Taker Government'. This government consisted of only two Indian members. Then Lord Wavell announced that the elections for the Assembly would go ahead as outlined in the Mission's Plan.[18] Significantly, for Jinnah, Pakistan's route to sovereignty would not be an outcome of the Constituent Assembly. As the Congress stalwart Sardar Vallabhbhai Patel rightly observed in a speech given at the Bombay session of the All India Congress Committee on 7 July 1946, for Jinnah, the Cabinet Mission was but a concession to his clearly articulated, although territorially vague, demand for Pakistan.[19]

At a press conference in Bombay on 10 July 1946, Jawaharlal Nehru summarized the Congress' position in the following way: the Constituent Assembly was the ultimate determining body of all matters that would arise in the future, regardless of what had been agreed upon previously. India would derive its sovereignty from a free and fair election. Therefore, the Assembly would not enter parliament with any limitations on what they could or could not determine. Regarding groupings, Nehru thought that the groups would dissolve quickly. It was unlikely that the groups would be able to sustain themselves during the Assembly:

> There will be no Grouping. Obviously, Section A will decide against Grouping. Speaking in betting language, there was [a] 4 to 1, chance of the North-West Frontier Province deciding against Grouping. Then

[16] 'League Objects to Changes in Original Plan: Assurances From Viceroy Sought', *The Times of India*, 20 June 1946.

[17] Muhammad Ali Jinnah to Lord Wavell, 28 June 1946, in Banerjee and Bose, *The Cabinet Mission in India*, 286.

[18] 'Wavell Bars Move to Delay Election', *The Times of India*, 29 June 1946.

[19] Speech of Sardar Vallabhbhai Patel at the All India Congress Committee, 7 July 1946, in Banerjee and Bose, *The Cabinet Mission in India*, 299.

> Group B collapses. It is highly likely that Assam will decide against Grouping with Bengal, although I would not like to say what the initial decision may be, since it is evenly balanced. But I can say with every assurance and conviction that there is going to be finally no Grouping there, because Assam will not tolerate it under any circumstances whatever. Thus you see this Grouping business approached from any point of view does not get on at all.[20]

On 13 July 1946 Jinnah answered Nehru's speech with some suspicion. 'Nehru's interpretation of the Congress acceptance of the Cabinet Mission's proposal of May 16' came as a 'complete repudiation of the basic form' of the agreement. The Congress was just holding on to a formal agreement, to find some strategic advantage in the formation of an interim government.[21] The Congress leaders were behaving like 'lawyers' and not like 'statesmen'. Jinnah's distrust of the language of the law had already pushed him into a position where the written word meant little.[22] The Constituent Assembly, for Jinnah, essentially meant the possibility to work out an agreement between two fully sovereign partners on a transnational level. In this sense, the Constituent Assembly could not decide over the establishment of groups. This agreement temporally and logically preceded it, as sovereignty lay outside the confines of the Assembly.

The Muslim League Council confirmed Jinnah's view on 29 July 1946. It withdrew from the acceptance given to the Mission's Plan. Then, the League openly questions the ability of the Constituent Assembly to act as a 'sovereign body', which could 'take decisions it thought proper'. Such an act would also stand in 'total disregard' of the realities that India faced on the ground.[23] To prove the political will of the Muslim community, Jinnah suggested Muslims should hold a Direct Action Day. This day would, on

[20] 'No Limiting the Sovereignty of Constituent Assembly', *The Times of India*, 11 July 1946.

[21] There were some tactical advantages to agreeing with the Cabinet Mission Plan. In case the League and the Congress agreed, the Viceroy, in his declaration of 16 June 1946, had stipulated that they would be automatically considered as part of the interim government, even if they could not agree upon a final solution on the Cabinet's composition. Stafford Cripps had the same impression after meeting with the Congress leaders in late June, as Lord Wavell noted in his private journal: Penderel Moon, ed., *Wavell: The Viceroy's Journal* (Delhi: Oxford University Press, 1973), 305.

[22] 'Mr. Jinnah on Issues in States', *The Times of India*, 13 July 1946.

[23] Resolution of the Muslim League Council, 29 July 1946, in Banerjee and Bose, *The Cabinet Mission in India*, 354.

the one hand, bring about an immediately 'independent and full sovereign State of Pakistan', without the need to 'impose any constitution, long-term or short-term', or the 'setting up of any Interim Government at the Centre'. Direct action was the way to 'achieve Pakistan' and 'vindicate their [Muslims] honour and to get rid of the present slavery under the British and contemplated future of Caste Hindu domination'.[24] The Council further called upon 'every Muslim to stand to a man behind their sole representative organisation, the All-India Muslim League, and be ready for every sacrifice'.

Constitutional methods had to be left behind to acquire sovereignty, Jinnah repeated. What both the British and the Congress had failed to understand, according to Jinnah, was the fact that Muslims were not like any other minority community. Instead, they formed a 'pistol' and were in a 'position to use it'. For Jinnah, these words were not an 'equivocation'. He stressed that he 'meant every word [of] it'. For Jinnah, the Cabinet's Plan would have outlined one version of a 'limited Pakistan'. After acknowledging the full sovereignty of Muslims as a nation, the respective states that had been grouped would revert some of their powers to the centre. Jinnah was disappointed that Congress had treated his offer with 'defiance and contempt'. The little room for compromise left, Jinnah lamented, was now gone, and it was only possible to 'march on' into a 'war'.[25]

Sovereignty was not acquired through formal procedural processes, Jinnah proclaimed in his endorsement speech for direct action. It could not be constructed through the 'bravado', and the 'childish statements' of Jawaharlal Nehru. Rather, sovereignty had to be seized. What followed on 16 August 1946 could justly be described, as what Shruti Kapila has called, a fratricide in a prelude to partition and perhaps even as an extraction of sovereignty.[26]

The Muslim League government of Bengal had declared 16 August 1946 as a public holiday to avoid, in the words of the Muslim League Chief Minister Huseyn Suhrawardy, 'any trouble on that day'.[27] The rioting

[24] Ibid., 359.

[25] Jinnah's Speech at the Muslim League Council, 29 July 1946, in Ibid., 361–62.

[26] See also Shruti Kapila, *Violent Fraternity: Indian Political Thought in the Global Age* (Princeton, NJ: Princeton University Press, 2021), ch. 7.

[27] Huseyn Suhrawardy to Lord Wavell, 8 August 1946, in Moon, *Wavell: The Viceroy's Journal*, 301.

broke out after a large convention of the League dissolved and appeared to have had at least some backing by the state, as the army and police did not intervene immediately during the fratricide.[28] Later the riots spread to Noakhali in East Bengal, and retaliations occurred in Bihar. Jinnah was not interested in issuing any strongly-worded statements condemning the ongoing riots, although Lord Wavell repeatedly asked him.[29] For Jinnah, the violence that took place in the Calcutta killings expressed a 'nation bent upon achieving freedom' and not 'prepared to surrender'.[30] It was divine violence of sorts. This view differed sharply from Nehru, who saw the killings as a way of jeopardizing India's freedom. He warned Jinnah that by adopting 'gangster methods' and fully engaging in a civil war, he would only bolster the colonial view that India was not ready for her self-rule.[31] The violence that ensued from Jinnah's call for direct action had a definite purpose. It underlined the claim for separation.

[28] 'The Calcutta Riots', *The Modern Review* (Calcutta, 1946).
[29] Lord Wavell to Muhammad Ali Jinnah, 17 August 1946, in Moon, *Wavell: The Viceroy's Journal*, 336.
[30] 'Calcutta Riots', *Dawn*, 18 August 1946.
[31] 'Mr. Nehru On Riots', *The Times of India*, 19 August 1946.

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